

# Select Committee on Pension Policy

P.O. Box 40914  
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## Executive Committee

**October 18, 2005**

2:00 pm - 4:00 pm  
House Hearing Room C  
Olympia

## AGENDA

- 2:00 PM    **(A) Approval of Minutes**
- 2:05 PM    **(B) Direction on Day's Full Agenda**
- 2:30 PM    **(C) November Committee Meeting**  
            • Meeting Planner
- 2:55 PM    **(D) Service Credit Purchases**
- 3:10 PM    **(E) Judges Benefit Multiplier**
- 3:25 PM    **(F) Executive Committee Direction**  
            • Age 70 1/2 and Opt In/Opt Out  
            • LEOFF 1 Benefit Cap
- 3:40 PM    **(G) Constituent Correspondence**
- 3:50 PM    **(H) Actuary Evaluation**
- 4:00 PM    **(I) Adjourn**

**\*Elaine M. Banks**  
*TRS Retirees*

**Representative Barbara Bailey**

**Lois Clement**  
*PERS Retirees*

**Representative Steve Conway**

**Representative Larry Crouse**

**\*Senator Karen Fraser,**  
*Vice Chair*

**\*Representative Bill Fromhold,**  
*Chair*

**\*Leland A. Goeke**  
*TRS and SERS Employers*

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*PERS Actives*

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*Office of Financial Management*

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**Senator Craig Pridemore**

**Diane Rae**  
*TRS Actives*

**J. Pat Thompson**  
*PERS Actives*

**David Westberg**  
*SERS Actives*

**\* Executive Committee**

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# Select Committee on Pension Policy

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## EXECUTIVE COMMITTEE DRAFT MINUTES

September 27, 2005

The Select Committee on Pension Policy met in House Hearing Room C, Olympia, Washington on September 27, 2005.

Committee members attending:

Senator Fraser, Vice Chair  
Elaine Banks  
Leland Goeke  
Robert Keller

Sandra J. Matheson  
Corky Mattingly  
Doug Miller  
Glenn Olson  
Diane Rae

Senator Fraser, Vice Chair, called the meeting to order at 1:40 PM.

### (A) Approval of Minutes

*It was moved to approve the August 23, 2005 Draft Minutes.*  
Seconded.

**MOTION CARRIED**

### (B) Goals for Washington State Public Pensions

Elaine Banks recommended that the Purchasing Power Goal be revised and forwarded to the Full Committee for approval.

### (C) Direction of Day's Full Agenda

Matt Smith, State Actuary, reviewed the "Direction on Today's Agenda" handout. Discussion followed. Vice Chair Fraser referred the PSERS Eligibility issue to the Public Safety Subgroup.

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**(D) October Committee Meeting**

Matt Smith, State Actuary, reviewed the "October 18 - Meeting Planner" handout. Discussion followed.

Glenn Olson recommended the committee review optional COLA purchases during the 2006 interim.

**(E) LEOFF 2 Retirement Board Update**

Steve Nelsen, Executive Director, LEOFF 2 Retirement Board, reported on the issues the LEOFF 2 Board is studying.

**(F) Executive Committee Direction**

- **TRS Out-of-State Service Credit**

Staff was instructed to draft bill language on "TRS Out-Of-State Service Credit" and schedule for possible executive session on the October Full Committee agenda.

- **Plan 3 Vesting**

Staff was instructed to draft bill language on "Plan 3 Vesting" and schedule for possible executive session on the October Full Committee agenda.

**(G) Actuary Evaluation**

Senator Fraser reviewed the policy for evaluating the State Actuary. Lee Goeke volunteered to facilitate and coordinate this year's evaluation of the State Actuary.

The meeting adjourned at 4:25 PM.

Select Committee on Pension Policy

# Direction on Today's Agenda

(October 6, 2005)

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Item #	Next Steps/ Add to Month/ WorkPlan
(5) <b>Disability Retirement</b> <i>Staff instructions:</i> <b><u>Further study during 2005 or defer until 2006 interim?</u></b>	<hr/>
(6) <b>Accounting for Post-Retirement Medical Benefits</b> <i>Staff instructions:</i> <b><u>Further study during 2005?</u></b>	<hr/>
(7) <b>Medicare Part D Briefing</b> <i>Staff instructions:</i> <b><u>Further study during 2005?</u></b>	<hr/>
(8) <b>TRS Out-of-State Service Credit</b> <i>Staff instructions:</i> <b><u>Gather signatures if necessary. Identify prime sponsor.</u></b>	<hr/>
(9) <b>Plan 3 Vesting</b> <i>Staff instructions:</i> <b><u>Gather signatures if necessary. Identify prime sponsor.</u></b>	<hr/>

# Select Committee on Pension Policy

## November 15 – Meeting Planner

(October 10, 2005)

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### **FULL COMMITTEE AGENDA**

- (1) OSA retire-rehire study - draft report
- (2) 2004 actuarial valuation report
- (3) Gain-sharing subgroup report and recommendations
- (4) Public safety subgroup report and recommendations
- (5) Plan 1 unfunded liability subgroup report and recommendations
- (6) Judges benefit multiplier - options
- (7) Service credit purchases - options

### **EXECUTIVE COMMITTEE AGENDA**

- (A) Directions on day's Full agenda
- (B) USERRA compliance - DRS follow-up report
- (C) PSERS Eligibility - bill draft
- (D) December SCPP meeting
- (E) Constituent correspondence
- (F) Actuary evaluation

# Select Committee on Pension Policy

## 2005 Work Plan

(October 10, 2005)

### June 21, 2005

Election of officers  
Rules of procedure  
2005 meeting dates  
Session update  
2005 work plan  
2005 mandatory studies - background

### October 18, 2005

Revised SCPP goals  
Plan 1 unfunded liability subgroup report  
Disability retirement - background  
Accounting for post-retirement medical benefits  
Medicare Part D briefing  
TRS out-of-state service credit  
Plan 3 vesting

### July 19, 2005

LEOFF 1 benefit cap - background/options  
Postretirement employment - options preview  
Plan 1 unfunded liability - background/options  
PSERS eligibility - background

### November 15, 2005

OSA retire-rehire study - report  
2004 actuarial valuation report  
Gain-sharing subgroup report and recommendations  
Public safety subgroup report and recommendations  
Plan 1 unfunded liability subgroup report and recommendations  
Judges benefit multiplier - options  
Service credit purchases - options

### August 23, 2005

SCPP goals  
Gain-sharing subgroup report  
Plan 1 unfunded liability - options  
Disability retirement - background  
TRS out-of-state service credit  
Age 70 ½ and opt in/opt out  
Plan 3 vesting

### September 27, 2005

USERRA compliance update - DRS report  
Judges benefit multiplier - background/options  
Service credit purchases - background  
PSERS eligibility - DRS report  
LEOFF 1 benefit cap - options

### December 13, 2005

LEOFF 1 benefit cap  
Post-retirement employment  
Plan 1 unfunded liability  
PSERS eligibility  
Disability retirement  
Age 70 ½ and opt in/opt out  
Gain-sharing  
Public Safety / WSP issues  
USERRA compliance  
Judges benefit multiplier  
Service credit purchases

### Other Items

Reports to legislative fiscal committees - during legislative assembly  
January 2006 meeting - session update (pension bills)

### Subgroups:

Gain-sharing  
Public safety/WSP  
Plan 1 unfunded liability

# Select Committee on Pension Policy

## Service Credit Purchase

### Draft Bill Sectional

(October 10, 2005)

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#### **Summary of Bill**

The draft bill for purchasing additional service credit permits members of PERS, TRS and SERS, PSERS, LEOFF 1 and WSPRS to make a one-time purchase of additional service credit, subject to the following restrictions:

- the member must be eligible for normal retirement;
- the purchase must be made at the time of normal retirement;
- the amount of service credit to be purchased must not exceed five years;
- the member must pay the actuarial equivalent value of the resulting increase in the member's benefit; and
- the service is not membership service, and cannot be used to qualify the member for retirement.

The member may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan.

***The following is a brief description of the individual bill sections.***

**Section 1:** Amends PERS to establish members' ability to purchase additional service credit for Plans 1, 2 and 3.

**Section 2:** Amends TRS to establish members' ability to purchase additional service credit for Plans 1, 2 and 3.

**Section 3:** Amends SERS to establish members' ability to purchase additional service credit for Plans 2 and 3.

**Section 4:** Amends PSERS to establish members' ability to purchase additional service credit.

**Section 5:** Amends LEOFF Plan 1 to establish members' ability to purchase additional service credit.

**Section 6:** Amends the WSPRS to establish members' ability to purchase additional service credit.

**Section 7:** Provides for an effective date.



**DRAFT**

**Service Credit Purchase (AirTime)**

1       AN ACT Relating to permitting members of the public employees'  
2 retirement system, the teachers' retirement system and the school  
3 employees' retirement system to make a one-time purchase of additional  
4 service credit; adding a new section to chapter RCW 41.40; adding a new  
5 section to chapter RCW 41.32; adding a new section to RCW 41.35; and  
6 providing an effective date.

7       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8       NEW SECTION.   **Sec. 1.**   A new section is added to chapter 41.40 RCW  
9 under the subchapter heading "provisions applicable to plan 1, plan 2  
10 and plan 3" to read as follows:

11       (1) A member eligible to retire under RCW 41.40.180, RCW  
12 41.40.630(1) or RCW 41.40.820(1) may, at the time of filing a written  
13 application for normal retirement with the department, apply to the  
14 department to make a one-time purchase of up to five years of  
15 additional service credit.

16       (2) To purchase additional service credit under this section, a  
17 member shall pay the actuarial equivalent value of the resulting  
18 increase in the member's benefit.

1 (3) Subject to rules adopted by the department, a member purchasing  
2 additional service credit under this section may pay all or part of the  
3 cost with a lump sum payment, eligible rollover, direct rollover, or  
4 trustee-to-trustee transfer from an eligible retirement plan. The  
5 department shall adopt rules to ensure that all lump sum payments,  
6 rollovers and transfers comply with the requirements of the internal  
7 revenue code and regulations adopted by the internal revenue service.  
8 The rules adopted by the department may condition the acceptance of a  
9 rollover or transfer from another plan on the receipt of information  
10 necessary to enable the department to determine the eligibility of any  
11 transferred funds for tax-free rollover treatment or other treatment  
12 under federal income tax law.

13 (4) Additional service credit purchased under this section is not  
14 membership service, and may not be used to qualify the member for  
15 retirement under RCW 41.40.180, RCW 41.40.630(1) or RCW 41.40.820(1).

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.32 RCW  
17 under the subchapter heading "provisions applicable to plan 1, plan 2  
18 and plan 3" to read as follows:

19 (1) A member eligible to retire under RCW 41.32.480, RCW  
20 41.32.765(1) or RCW 41.32.875(1) may, at the time of filing a written  
21 application for normal retirement with the department, apply to the  
22 department to make a one-time purchase of up to five years of  
23 additional service credit.

24 (2) To purchase additional service credit under this section, a  
25 member shall pay the actuarial equivalent value of the resulting  
26 increase in the member's benefit.

27 (3) Subject to rules adopted by the department, a member purchasing  
28 additional service credit under this section may pay all or part of the  
29 cost with a lump sum payment, eligible rollover, direct rollover, or  
30 trustee-to-trustee transfer from an eligible retirement plan. The  
31 department shall adopt rules to ensure that all lump sum payments,  
32 rollovers and transfers comply with the requirements of the internal  
33 revenue code and regulations adopted by the internal revenue service.  
34 The rules adopted by the department may condition the acceptance of a  
35 rollover or transfer from another plan on the receipt of information

1 necessary to enable the department to determine the eligibility of any  
2 transferred funds for tax-free rollover treatment or other treatment  
3 under federal income tax law.

4 (4) Additional service credit purchased under this section is not  
5 membership service, and may not be used to qualify the member for  
6 retirement under RCW 41.32.180, RCW 41.32.765(1) or RCW 41.32.875(1).

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.35 RCW  
8 under the subchapter heading "provisions applicable to plan 2 and plan  
9 3" to read as follows:

10 (1) A member eligible to retire under RCW 41.35.420(1) or RCW  
11 41.35.680(1) may, at the time of filing a written application for  
12 normal retirement with the department, apply to the department to make  
13 a one-time purchase of up to five years of additional service credit.

14 (2) To purchase additional service credit under this section, a  
15 member shall pay the actuarial equivalent value of the resulting  
16 increase in the member's benefit.

17 (3) Subject to rules adopted by the department, a member purchasing  
18 additional service credit under this section may pay all or part of the  
19 cost with a lump sum payment, eligible rollover, direct rollover, or  
20 trustee-to-trustee transfer from an eligible retirement plan. The  
21 department shall adopt rules to ensure that all lump sum payments,  
22 rollovers and transfers comply with the requirements of the internal  
23 revenue code and regulations adopted by the internal revenue service.  
24 The rules adopted by the department may condition the acceptance of a  
25 rollover or transfer from another plan on the receipt of information  
26 necessary to enable the department to determine the eligibility of any  
27 transferred funds for tax-free rollover treatment or other treatment  
28 under federal income tax law.

29 (4) Additional service credit purchased under this section is not  
30 membership service, and may not be used to qualify the member for  
31 retirement under RCW 41.35.420(1) or RCW 41.35.680(1).

32 NEW SECTION. **Sec. 4.** A new section is added to Chapter 41.37 to read  
33 as follows:

1 (1) A member eligible to retire under RCW 41.37.210 (1) or (2) may,  
2 at the time of filing a written application for normal or unreduced  
3 retirement with the department, apply to the department to make a one-  
4 time purchase of up to five years of additional service credit.

5 (2) To purchase additional service credit under this section, a  
6 member shall pay the actuarial equivalent value of the resulting  
7 increase in the member's benefit.

8 (3) Subject to rules adopted by the department, a member purchasing  
9 additional service credit under this section may pay all or part of the  
10 cost with a lump sum payment, eligible rollover, direct rollover, or  
11 trustee-to-trustee transfer from an eligible retirement plan. The  
12 department shall adopt rules to ensure that all lump sum payments,  
13 rollovers and transfers comply with the requirements of the internal  
14 revenue code and regulations adopted by the internal revenue service.  
15 The rules adopted by the department may condition the acceptance of a  
16 rollover or transfer from another plan on the receipt of information  
17 necessary to enable the department to determine the eligibility of any  
18 transferred funds for tax-free rollover treatment or other treatment  
19 under federal income tax law.

20 (4) Additional service credit purchased under this section is not  
21 membership service, and may not be used to qualify the member for  
22 retirement under RCW 41.37.210(1) or (2) .

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.26 RCW  
24 under the subchapter heading "provisions applicable to plan 1" to read  
25 as follows:

26 (1) A member eligible to retire under RCW 41.26.090 may, at the  
27 time of filing a written application for retirement for service with  
28 the department, apply to the department to make a one-time purchase of  
29 up to five years of additional service credit.

30 (2) To purchase additional service credit under this section, a  
31 member shall pay the actuarial equivalent value of the resulting  
32 increase in the member's benefit.

33 (3) Subject to rules adopted by the department, a member purchasing  
34 additional service credit under this section may pay all or part of the  
35 cost with a lump sum payment, eligible rollover, direct rollover, or

1 trustee-to-trustee transfer from an eligible retirement plan. The  
2 department shall adopt rules to ensure that all lump sum payments,  
3 rollovers and transfers comply with the requirements of the internal  
4 revenue code and regulations adopted by the internal revenue service.  
5 The rules adopted by the department may condition the acceptance of a  
6 rollover or transfer from another plan on the receipt of information  
7 necessary to enable the department to determine the eligibility of any  
8 transferred funds for tax-free rollover treatment or other treatment  
9 under federal income tax law.

10 (4) Additional service credit purchased under this section is not  
11 membership service, and may not be used to qualify the member for  
12 retirement under RCW 41.26.090.

13 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.43 RCW to  
14 read as follows:

15 (1) A member eligible to retire under RCW 43.43.250 may, at the  
16 time of filing a written application for retirement with the  
17 department, apply to the department to make a one-time purchase of up  
18 to five years of additional service credit.

19 (2) To purchase additional service credit under this section, a  
20 member shall pay the actuarial equivalent value of the resulting  
21 increase in the member's benefit.

22 (3) Subject to rules adopted by the department, a member purchasing  
23 additional service credit under this section may pay all or part of the  
24 cost with a lump sum payment, eligible rollover, direct rollover, or  
25 trustee-to-trustee transfer from an eligible retirement plan. The  
26 department shall adopt rules to ensure that all lump sum payments,  
27 rollovers and transfers comply with the requirements of the internal  
28 revenue code and regulations adopted by the internal revenue service.  
29 The rules adopted by the department may condition the acceptance of a  
30 rollover or transfer from another plan on the receipt of information  
31 necessary to enable the department to determine the eligibility of any  
32 transferred funds for tax-free rollover treatment or other treatment  
33 under federal income tax law.

1       (4) Additional service credit purchased under this section is not  
2 membership service, and may not be used to qualify the member for  
3 retirement under RCW 43.43.250.

4 NEW SECTION.   **Sec. 7.**   This act takes effect July 1, 2007.

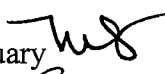
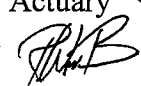
--- **END** ---

# Select Committee on Pension Policy

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October 18, 2005

To: Executive Committee, Select Committee on Pension Policy

From: Matthew M. Smith, FCA, MAAA, EA, State Actuary   
Robert Wm. Baker, Senior Research Analyst 

Subject: Judges Benefit Multiplier

Recent discussions with proponents advocating changes in the benefit multiplier for Superior Court judges have revealed some elements that were not included in the original analysis and fiscal impacts.

One of the questions in the initial report was whether PERS 1 members would be included in any benefit proposal. That was unclear from the first discussions with proponents; and, as a result, the original fiscal calculations did not include PERS 1 members. Recently, proponents revealed that they did want PERS 1 members to be included. Any benefit proposal that included PERS 1 members could still be designed as revenue neutral, but there would be some policy implications of PERS 1 judges receiving a defined benefit above 60 percent of average final compensation.

There may also be Bakenhus (contractual rights) issues with any proposal that is not optional. It is possible that a mandatory change in benefits of this nature could harm some individuals. Those whose Judges Retirement Account (JRA) performed well during their judicial service could see their total benefits diminished by a mandatory change.

Additionally, any significant change in benefits for judges may result in a shift in the choices made by future members. Currently there are a number of judges who chose to join PERS 3. It is uncertain whether they would have made that choice if they could have earned a 3.5 percent per year accrual in PERS 2. If the committee wants to forward this proposal, it may be worthwhile to include a window for PERS 3 judges to move to PERS 2.

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# Select Committee on Pension Policy

## Judges Benefit Multiplier

(October 10, 2005)

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### Issue

Judges employed by Washington State after June 30, 1998, – Supreme Court, Court of Appeals, and Superior Court judges – are members of the Public Employees Retirement System (PERS). They also receive an additional retirement benefit called the Judges Retirement Account (JRA). This is a Defined Contribution (DC) account into which members and the state each contribute 2.5 percent of pay. Upon retirement, state employed judges receive their PERS benefits plus distributions from their JRA accounts.

### Proposal

The Superior Court Judges Association has asked the SSCP to review the current benefit formula. The Association is proposing to raise the benefit formula to 3.5 percent per year to a maximum benefit of 75 percent of pay. The Judges Association also proposes that the benefit improvement be in lieu of the current JRA benefit received by Superior Court judges, thereby financing the benefit within existing resources. The Superior Court judges are the only judges making this request.

### Staff

Robert Wm. Baker, Senior Research Analyst  
(360) 786-6144

### Members Impacted

This proposal would effect all members of PERS serving as Superior Court judges.



According to the Administrative Office of the Courts, there are nine Supreme Court judges, 22 Court of Appeals judges, 179 Superior Court judges, 110 District Court judges, and 120 Municipal Court judges in Washington State.

### **Current Situation**

Since July 1, 1988, newly elected or appointed judges have become members of the PERS Plan 2. Since March 1, 2002, newly elected or appointed judges have had the choice to enter either PERS 2 or PERS 3.

A Plan 2 member is eligible for an unreduced retirement benefit at age 65 with at least five years of service; the member's benefit would be 2 percent of their Average Final Compensation (AFC) times their years of service.

A Plan 3 member would be eligible for an unreduced retirement benefit at age 65 with at least ten years of service (or five years if 12 months of service credit is earned after age 54); their benefit would be 1 percent of their AFC times their years of service plus the accumulations in their individual defined contribution account.

There is no cap on a PERS 2/3 Defined Benefit (DB).

In addition to a PERS benefit, state-employed judges are also eligible for a supplemental benefit from the JRA — a Defined Contribution (DC) plan. The supplemental retirement benefit was created when the earlier Judicial Retirement System was closed (June 30, 1988). This benefit was established under Chapter 109, Laws of 1988, and is found in Chapter 2.14 RCW (see Appendix A). The JRA is available to judges serving on the Supreme Court, Court of Appeals, and Superior Court.

To fund the JRA benefit, members and their employer (the state) each contribute 2.5 percent of pay. Those contributions are deposited into member accounts in the “Judicial Retirement Principal Account” within the State Treasury. Under the direction of the Administrator of the Courts, this account may be deposited in select depository institutions, used to purchase life insurance or fixed or variable annuities, or as is done currently, invested by the State Investment Board.

Upon retirement, member judges are eligible for their PERS benefits, plus a JRA distribution. That distribution may be in the form of a lump-sum or other payment option as adopted by the Administrator for the Courts.

## Plan History

Prior to the current PERS – JRA combination, judges were served by the Judges’ Retirement Plan (1937 - 1971) and the Judicial Retirement System (1971 - 1988). Both plans offered a maximum benefit of 75 percent of final average salary that could be accrued after about 21½ years of service. The actual accrual rates differed for members with shorter service, but worked out almost the same for those who served long enough to accrue the maximum benefit (see Figure 1).

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**Figure 1**  
**Service Retirement Formulas in the Judges and Judicial Retirement Plans**

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<b>Judges</b>	For members with 12 to 18 years of service: 50% of FAS × (Years of service ÷ 18)
	For members with more than 18 years of service: 50% of FAS + (1/18th of salary for each year over 18) to a maximum of 75% of FAS
<b>Judicial</b>	For members with more than 10 but less than 15 years of service: 3% of FAS per year of service
	For members with 15 or more years of service: 3.5% of FAS per year of service to a maximum of 75% of FAS

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These plans were unusual in that they were funded on a pay-as-you-go basis. This made them inordinately expensive as there was no investment earnings to help defray the cost of the plans. While members' contributions were 7.5 percent of pay in the Judicial Plan and 6.5 percent of pay in the Judges Plan, the state contributions averaged over 40 percent of pay.

Based on recommendations of the Joint Committee on Pension Policy (JCPP), the Judicial Retirement System was closed to new members on June 30, 1988. New Superior Court, Court of Appeals, and Supreme Court judges would become members of PERS 2 and also contribute to the JRA. Because new judges became members of a cost-sharing, pre-funded plan, this lowered their cost and that of the state to about 7.5 percent of pay each, for a total of 15 percent of pay.

### Member Characteristics

Based on current data, the average Superior Court judge became a member of PERS at around 40 years of age. That would be considered a mid-career hire for an average PERS member. Their entry date isn't necessarily when they became judges; they may have served in other PERS eligible capacities before their judges service. Superior Court judges are also highly paid relative to the PERS membership at large. Their salaries are set by the "Washington Citizens Commission on Salaries for Elected Officials" (WCCSEO). Superior Court judges annual salaries were set at \$124,411 for fiscal year 2004, \$128,143 for fiscal year 2005, and will increase to \$131,988 in 2006.

<b>Figure 2</b>			
<b>Superior Court Judges Membership Demographics 9/30/03</b>			
	<b>PERS 1</b>	<b>PERS 2</b>	<b>PERS 3</b>
<b>Active Members</b>	51	102	7
<b>Average Age</b>	58.2	53.4	53.3
<b>Average Years of Service</b>	19.2	11.9	10.4

### Retirement Benefit Example

An example of the defined retirement benefit earned by a Superior Court judge would be similar to that earned by a PERS 2 member in a typical civil service position – 2 percent per year of service times AFC. The difference in the retirement benefit rests in the DC accumulations in the JRA. Figure 3 shows an estimated accumulation in such an account and, if annuitized, what that

would represent as a defined benefit. This example assumes an entry age of 40 and retirement at age 65 after 25 years of service. While many judges serve beyond age 65, this is when the member is first eligible for an unreduced defined benefit.

---

**Figure 3**  
**Superior Court Judge**  
**Plan 2 Member Retiring in 2004**

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Age	65
Years of Service	25
Benefit Ratio ( $2\% \times$ Years of Service)	50%
Average Final Compensation (monthly)	\$9,502
Base Benefit	\$4,751
JRA Accumulations	\$276,928
Annuitized Accumulation (monthly)	\$2,084
Total Monthly Benefit	\$6,835
% of Average Final Compensation	71.9%
Equivalent DB Accrual Rate per Year	2.88%

---

In Figure 3, the member's DB is 50 percent of AFC – 2 percent times 25 years of service. With an AFC of \$9,502, the base benefit, prior to payment options, is \$4,751. Added to the DB is the annuitized JRA accumulations. The estimated accumulations are based on contributions of 5 percent of salary compounded at 8 percent interest (the actuarially assumed rate of return) for 25 years. When added to the DB, the annuitized JRA accumulations increase the total monthly benefit to \$6,835. That represents 71.9 percent of the member's AFC and a benefit accrual rate equivalent to 2.88 percent per year of service. It should be noted that a lower/higher long-term rate-of-return on the JRA account would result in lesser/greater, accumulations than in the above example.

Assets invested over the long-term are less sensitive to any single down market period. One risk in a DC design, as is the JRA, is the possibility of poor investment performance in the short term. Judges who accepted late-career appointments, say after age 50, would be more at risk of a Bear market impeding their JRA accumulations.

### Other States

Among the comparative states used in this analysis, judges' retirement benefits are distinct from regular plan members. The principal consistencies among the comparative states' judges' retirement plans is that they tend to be DB plans

and have relatively high benefit accrual rates – Ohio’s plan is a DB plan, with a DC option. Beyond that, there are significant differences in benefit multipliers, AFC periods, and maximum benefits.

**Figure 4**  
**Select Judges Retirement Plan Provisions**

	<b>Benefit Multiplier</b>	<b>AFC Period</b>	<b>Maximum Benefit</b>
<b>CalPERS (Judges II)</b>	3.75%	12 months	75%
<b>Colorado PERA</b>	2.5%	3 years	100%
<b>Florida FRS</b>	3.33%	5 fiscal years	100%
<b>Idaho</b>	5%, yrs 1-10 2.5%, yrs 10+	Current Annual	75%
<b>Iowa</b>	3.0%	3 years	60%
<b>Minnesota<sup>1</sup></b>	3.2%	5 years	76.8%
<b>Missouri</b>	2.5%, 3.33%, 4.17%	Current Salary	50%
<b>Ohio<sup>2</sup></b>	2.2% up to 30 yrs	3 highest yrs	100%
<b>Oregon</b>	A: 2.8125% yrs 1-16 1.67% yrs 16+	36 months	A: 65%
<b>A: Regular</b>	B: 3.75% yrs 1-16		B: 75%
<b>B: With Pro Tempore service</b>	2.0% yrs 16+		
<b>Wisconsin</b>	2000 - 2.0% Prior to 2000 - 2.165%	3 highest years	70% or more

<sup>1</sup> After 24 years, members contribute to the Unclassified Employees Retirement Plan.

<sup>2</sup> Ohio judges (elected officials) may purchase service credit for two times the annual employee contribution rate.

The benefit multiplier among the comparative states varies from 2.5 percent in Colorado to 4.17 percent in Missouri (see Figure 4). But those multipliers must be viewed in concert with the other elements of the plans, particularly the maximum benefit and participation in Social Security. For instance, Ohio and Colorado members do not participate in Social Security. Missouri’s high multiplier is only for those who are appointed at later ages and allows them to accrue a benefit equal to 50 percent of their final salary at age 62 after 12 years of service. Missouri’s plan allows a member to receive a maximum benefit of 50 percent of final salary, the lowest of the comparative states. As a result, judges retirement policy in Missouri is considerably different than the policy in Colorado where judges are encouraged to serve longer and retire at later ages.

The AFC period among the plans varies widely as well. Idaho and Missouri use the current salary in the benefit formula and California uses the most recent 12 month salary. Minnesota and Florida use a five-year average. But, again, these design elements should be considered in light of the maximum benefit allowed under these plans. Minnesota and Florida allow members to accrue a benefit at a higher percent of AFC than Idaho, Missouri, or California.

Based on the comparative states, there is little consistency in the retirement plan design and policy for judges. Some plans encourage long service – some short. Some have high multipliers – some low. Some use the current salary to calculate benefits – some use up to five years of salary. The combination of PERS and JRA benefits appears to place Washington State in the middle of the pack in terms of retirement benefits for judges.

### **Policy**

Retirement policy regarding judges employed by the state is inferred in statute. That policy is based on the principal that judicial service warrants a greater retirement benefit than the standard PERS allowance; this is accomplished through the JRA. This policy drove the benefit design in the earlier “Judges” and “Judicial” retirement systems. The accumulation dynamics of a DC account are such that, while not stated, longer membership is advantageous and thus encouraged.

### **Policy Questions**

Is a combination DB/DC the best retirement plan design for mid-career hires? What about late-career hires?

In light of the higher compensation received by judges, is it necessary to have a higher multiplier in order for their retirement benefit to be adequate?

Are there recruitment issues that would be resolved by modifying judges retirement benefits?

### **Benefit Questions**

Does the committee want to include the Supreme Court and Court of Appeals judges in this proposal, as they also receive the JRA?

Does the committee want to include PERS District and Municipal Court judges in any proposal, even though they do not currently receive the JRA?

Does the committee want to establish an option for members to purchase past service?

If the committee decided to change the plan design for Superior Court judges so as to consolidate the existing DB and DC elements into a DB design, would it want this consolidation of benefits to be of equivalent value to the existing PERS and JRA plans, or would it want to increase the benefits?

## Options

1. Eliminate the Judges Supplemental Retirement Account and create a Superior Court judges benefit that allows Plan 2 members to accrue a 3.5 percent per year DB to a maximum of 75 percent of AFC and Plan 3 members to accrue a 1.75 percent per year DB to a maximum of 37.5 percent of AFC. Plan 3 members would still be required to contribute 2.5 percent of pay they had formerly contributed to their JRA to either their PERS 3 member account (instead of a 5 percent minimum contribution it would be a 7.5 percent minimum contribution) or a DC account.

**Fiscal Impact:** The current normal cost (not including gain-sharing) of the PERS 2/3 employer rate and the PERS 2 member rate is 4.35 percent of pay each. Those rates support the PERS 2/3 DB accruals. For the DB to accrue at 3.5 percent per year instead of 2.0 percent per year, the cost would increase on a near proportionate basis to 7.57 percent of pay each. The 2.50 percent JRA contribution would make up most of the cost, but the plan would require an additional 0.72 percent of pay from both the employer and Plan 2 members. This would have a General Fund State cost of \$200,000 in 2006-07 and a 25 year cost of \$9.1 million.

**Alternate Fiscal Impact:** If the member judges were to pay the entire cost of the benefit increase, their contribution rates would be the original normal cost plus the JRA contribution plus the entire difference of 1.44 percent; (0.72 percent for the member and employer) the average increase in a judge's annual retirement contributions would be \$1,792 (2004 salary). This would require no new employer contributions.

2. Eliminate the Judges Supplemental Retirement Account and create a Superior Court judges benefit that allows members to accrue a DB equal to the combined value of the existing PERS and JRA benefits to a maximum of 75 percent of AFC for Plan 2 members and 37.5 percent of AFC for Plan 3 members. This would be an estimated accrual rate of 3.15 percent per year of service for Plan 2 members and 1.575 percent

for Plan 3 members. Plan 3 members would still be required to contribute 2.5 percent of pay they had formerly contributed to their JRA to either their PERS 3 member account (instead of a 5 percent minimum contribution it would be a 7.5 percent minimum contribution) or a DC account.

**Fiscal Impact:** The current normal cost (not including gain-sharing) of the PERS 2/3 employer rate and the PERS 2 employee rate is 4.35 percent of pay each. Those rates support the PERS 2/3 DB accruals. The 2.50 percent JRA contribution would be added to the normal cost contribution rates to pay for the equivalent increase in the DB accrual. This would require no new member or employer contributions.

3. Include all judges in any benefit proposal, including District and Municipal Court judges. As District and Municipal Court judges do not pay into the JRA, they and their employers do not have that existing revenue source to off-set part of the cost of any benefit increase. (Note: Cost estimates for District and Municipal Court judges were based on the Superior Court Judges demographic profile. More complete information will result in different costs.)

**Fiscal Impacts:**

To fund a defined benefit with a 3.5 percent per year accrual, District and Municipal Court judges and their employers would each need to contribute an additional 3.22 percent of pay. The combined employer cost for Superior Court, District Court, and Municipal Court judges would be \$1.3 million in 2006-07 (\$0.2 million GFS and \$1.1 million local) and a 25 year cost of \$68.3 million (\$9.1 million GFS and \$59.2 million local).

To fund a defined benefit with a 3.15 percent per year accrual, District and Municipal Court judges and their employers would each need to contribute an additional 2.50 percent of pay. The Local Government employer cost would be \$900,000 in 2006-07 (\$0 GFS) and a 25 year cost of \$46.0 million (\$0 GFS).

4. Keep the existing JRA benefit and retain the existing multiplier.

**Fiscal Impact:** This would require no new member or employer contributions.



### **Stakeholder Input**

Letter from Leonard Costello, Immediate Past President, Superior Court Judges Association (see Attachment).

### **Next Steps**

The Executive Committee of the SCPP will decide whether to forward a recommendation to the full committee.



**WASHINGTON  
COURTS**

# Superior Court Judges' Association

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May 26, 2005

**Senator Karen Fraser**  
Chair, Pension Policy Committee  
Olympia, WA

**Representative Steve Conway**  
Vice Chair, Pension Policy Committee  
Olympia, WA

Dear Senator Fraser and Representative Conway

On behalf of the superior court judges in Washington State, I respectfully request the Pension Policy Committee review the current benefit formula for judges. Recent independent analysis shows that the benefits of the Washington State Superior Court Judges retirement plan ranks near the bottom of the fifty states. This alarming statistic is in sharp contrast to Washington's judicial reputation as one of the best in the United States.

The superior court judges request the committee consider an improvement to the plan that would increase the current two percent multiplier to three and a half percent for service earned; and set a maximum of 75 percent of pay for the entire benefit. As a possible offset to the increased cost to the state, the judges request the committee explore reducing the state's contribution to the judicial retirement account that is currently set at two and a half percent.

Most of Washington's superior court judges come to the position later in their careers because they want to serve the public good. Our objective in the review is to establish a retirement benefit formula that attracts the best and brightest from the legal community into Washington's judiciary.

Thank you,

**Leonard Costello**  
Immediate Past President

cc: **Matt Smith**

STATE OF WASHINGTON

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# Select Committee on Pension Policy

## Executive Committee

### Direction

(September 30, 2005)

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The following sample motions are provided for your reference as examples of possible executive committee direction to the full committee on these issues.

#### Age 70 1/2 and Opt In/Opt Out

*Possible Motion A (re-endorsement of last year's bill):* "I move that HB 1318 - 2005 be forwarded to the Full Committee for re-endorsement."

*Possible Motion B (new bill draft for 2006):* "I move that an updated bill draft of HB 1318 -2005 be prepared for the 2006 Legislative Session and forwarded to the Full Committee for possible executive session."

#### LEOFF 1 Benefit Cap

*Possible Motion A (endorse removal of cap - non SCPP bill):* "I move that HB 1873/SB 5901 - 2005 be forwarded to the Full Committee for endorsement."

*Possible Motion B (new bill for 2006 - remove cap):* "I move that an updated bill draft of HB 1873/SB 5901 - 2005 be prepared for the 2006 Legislative Session and forwarded to the Full Committee for possible executive session."

*Possible Motion C (new bill for 2006 - increase cap to 70%):* "I move that an updated bill draft of HB 2416 - 2004 be prepared for the 2006 Legislative Session and forwarded to the Full Committee for possible executive session."

# Select Committee on Pension Policy

## Age 70½ and Opt-in/Opt-out

(August 9, 2005)

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### **Proposal**

Allow members of PERS, SERS, and TRS who have attained age 70½ to retire and return to work without restriction. Such individuals would continue to draw a salary but would cease active membership in their plans and would no longer accumulate service credit. The provision would not apply to state elected officials unless they leave elected office or are reelected after the effective date of the act.

Also allow members of TRS Plans 2 and 3, SERS, and PERS holding state elective office the option, at the beginning of each term of office, to continue active membership or to retire and begin receiving their retirement allowance

### **Staff**

Robert Wm. Baker (360) 586-9237

### **Members Impacted**

This proposal would impact all PERS, SERS, and TRS members who desire to work beyond age 70½ and all members of PERS, SERS, and TRS 2/3 who hold state elective office.

As of the 2004 valuation there were 541 vested members of PERS, SERS, and TRS who were still working at age 70½.

At last count there were 153 state elective officials who were plan members without other public employment.

### **Current Situation**

After separating from employment for one month, PERS and SERS retirees may return to work for up to 867 hours in a calendar year before their benefit is suspended. PERS 1 retirees who separated for three months may

return to work for up to 1,500 hours in a calendar year before their benefit is suspended.

After separating from employment for one month, TRS 1 retirees may return to work for up to 1,500 hours in a school year before their benefit is suspended. After separating from employment for one month, TRS 2/3 retirees may return to work for up to 867 hours in a school year before their benefit is suspended.

State elected official members of most Washington State Retirement Systems and plans must separate from service in order to retire and begin receiving their retirement benefits, regardless of age. TRS 1 is the exception in permitting state elected officials who are TRS 1 members, if otherwise eligible, to begin receiving their retirement benefit while serving in state elective office. The LEOFF 1 plan also allows retired members to work for any non-LEOFF employer without a reduction of their benefits.

### **History**

During the 2002 Interim, the Joint Committee on Pension Policy (JCPP) forwarded companion bills SB 5093 and HB 1209 to the 2003 legislature. These bills would have allowed members of PERS, SERS, and TRS Plans 1, 2, and 3 who have attained age 70½ and meet the vesting requirements of their plan to apply for retirement benefits without requiring that they separate from service. Such retirees would not be allowed to continue to make contributions and earn service credit. The bill passed in the Senate, but did not receive a hearing in the House.

The JCPP also forwarded companion bills HB 1201 and SB 5095 to the 2003 legislature. This legislation would have allowed PERS, SERS, TRS 2/3, or LEOFF 2 members holding state elective office the option, at the beginning of each term of office, of continuing active membership or retiring and beginning their retirement allowance. SB 5095 passed the Senate. HB 1201 did not receive a hearing in the House.

In the 2004 interim the Select Committee on Pension Policy was briefed on the issues and recommended sponsoring legislation for the 2005 session. The resulting legislation, HB 1318, had a total employer cost of \$4.6 million in 2005-07, \$5.5 million in 2007-09, and \$82.8 million through 2030. The bill received a hearing, but did not move from the House Appropriations Committee.

During the 2004 interim the LEOFF 2 retirement board recommended legislation affecting post-LEOFF 2 employment. The bill provides a member who is otherwise "estopped" from membership in another Washington public retirement system with the option to join membership in another Washington retirement system. The bill also provides retirees who become employed in eligible non-LEOFF positions with a choice to either receive their LEOFF pension or enter membership in another plan and suspend receipt of their LEOFF pension until their employment in the other system ends. The 2005 legislature passed the legislation and it was codified as Chapter 372, Laws of 2005.

### **Policy Analysis**

The age 70½ issue was originally thought to involve compliance to federal rules mandating distribution of retirement allowances at age 70½. When it was discovered that those rules applied to private plans, the state provisions were repealed. This issue has now evolved from one in which older members may receive retirement benefits without separating from employment, to a post-retirement employment issue where members must separate from employment before being eligible for the benefit. This would establish a new policy in the post-retirement employment arena.

The opt-in/opt-out issue is one in which inconsistencies already exist in the provisions of the various systems and plans. This proposal would remove much of that inconsistency, and standardize the optional membership of elected officials in a manner similar to existing TRS 1 provisions. Additionally, this proposal may support attraction and retention of state elected officials.

### **Executive Committee Recommendation**

In the 2004 interim, the executive committee agreed to forward the subgroup proposal to the full committee for public hearing. During the 2005 interim, the executive committee forwarded this issue to the full Committee for reconsideration.

### **Bill (2005)**

Attached

### **Fiscal Note (2006 Draft)**

Attached

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HOUSE BILL 1318

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State of Washington

59th Legislature

2005 Regular Session

By Representatives Crouse, Conway, Simpson, Upthegrove and Linville;  
by request of Select Committee on Pension Policy

Read first time 01/20/2005. Referred to Committee on Appropriations.

1 AN ACT Relating to allowing certain members of the teachers',  
2 school employees', and public employees' retirement systems to return  
3 to work without restrictions or begin receiving their retirement  
4 allowance before separation from state elective office; amending RCW  
5 41.32.010, 41.32.263, 41.35.030, and 41.40.023; adding a new section to  
6 chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; and  
7 adding a new section to chapter 41.40 RCW.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.32 RCW  
10 to read as follows:

11 A member who retires on or after attainment of age seventy and one-  
12 half and enters employment with an employer at least one month after  
13 his or her accrual date may continue to receive pension payments while  
14 engaged in such service without restriction. The retiree is no longer  
15 an active member and may not make contributions, or receive service  
16 credit, for future periods of employment while receiving his or her  
17 retirement allowance. This section does not apply to any member who is  
18 a state elected official unless that member leaves elected office or is  
19 reappointed or reelected after the effective date of this act.



1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 41.35 RCW  
2    to read as follows:

3        A member who retires on or after attainment of age seventy and one-  
4    half and enters employment with an employer at least one month after  
5    his or her accrual date may continue to receive pension payments while  
6    engaged in such service without restriction. The retiree is no longer  
7    an active member and may not make contributions, or receive service  
8    credit, for future periods of employment while receiving his or her  
9    retirement allowance. This section does not apply to any member who is  
10   a state elected official unless that member leaves elected office or is  
11   reappointed or reelected after the effective date of this act.

12       NEW SECTION.    **Sec. 3.**    A new section is added to chapter 41.40 RCW  
13   to read as follows:

14       A member who retires on or after attainment of age seventy and one-  
15   half and enters employment with an employer at least one month after  
16   his or her accrual date may continue to receive pension payments while  
17   engaged in such service without restriction. The retiree is no longer  
18   an active member and may not make contributions, or receive service  
19   credit, for future periods of employment while receiving his or her  
20   retirement allowance. This section does not apply to any member who is  
21   a state elected official unless that member leaves elected office or is  
22   reappointed or reelected after the effective date of this act.

23       **Sec. 4.**    RCW 41.32.010 and 2003 c 31 s 1 are each amended to read  
24   as follows:

25       As used in this chapter, unless a different meaning is plainly  
26   required by the context:

27       (1)(a) "Accumulated contributions" for plan 1 members, means the  
28   sum of all regular annuity contributions and, except for the purpose of  
29   withdrawal at the time of retirement, any amount paid under RCW  
30   41.50.165(2) with regular interest thereon.

31       (b) "Accumulated contributions" for plan 2 members, means the sum  
32   of all contributions standing to the credit of a member in the member's  
33   individual account, including any amount paid under RCW 41.50.165(2),  
34   together with the regular interest thereon.

35       (2) "Actuarial equivalent" means a benefit of equal value when

1 computed upon the basis of such mortality tables and regulations as  
2 shall be adopted by the director and regular interest.

3 (3) "Annuity" means the moneys payable per year during life by  
4 reason of accumulated contributions of a member.

5 (4) "Member reserve" means the fund in which all of the accumulated  
6 contributions of members are held.

7 (5)(a) "Beneficiary" for plan 1 members, means any person in  
8 receipt of a retirement allowance or other benefit provided by this  
9 chapter.

10 (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
11 in receipt of a retirement allowance or other benefit provided by this  
12 chapter resulting from service rendered to an employer by another  
13 person.

14 (6) "Contract" means any agreement for service and compensation  
15 between a member and an employer.

16 (7) "Creditable service" means membership service plus prior  
17 service for which credit is allowable. This subsection shall apply  
18 only to plan 1 members.

19 (8) "Dependent" means receiving one-half or more of support from a  
20 member.

21 (9) "Disability allowance" means monthly payments during  
22 disability. This subsection shall apply only to plan 1 members.

23 (10)(a) "Earnable compensation" for plan 1 members, means:

24 (i) All salaries and wages paid by an employer to an employee  
25 member of the retirement system for personal services rendered during  
26 a fiscal year. In all cases where compensation includes maintenance  
27 the employer shall fix the value of that part of the compensation not  
28 paid in money.

29 (ii) For an employee member of the retirement system teaching in an  
30 extended school year program, two consecutive extended school years, as  
31 defined by the employer school district, may be used as the annual  
32 period for determining earnable compensation in lieu of the two fiscal  
33 years.

34 (iii) "Earnable compensation" for plan 1 members also includes the  
35 following actual or imputed payments, which are not paid for personal  
36 services:

37 (A) Retroactive payments to an individual by an employer on  
38 reinstatement of the employee in a position, or payments by an employer

1 to an individual in lieu of reinstatement in a position which are  
2 awarded or granted as the equivalent of the salary or wages which the  
3 individual would have earned during a payroll period shall be  
4 considered earnable compensation and the individual shall receive the  
5 equivalent service credit.

6 (B) If a leave of absence, without pay, is taken by a member for  
7 the purpose of serving as a member of the state legislature, and such  
8 member has served in the legislature five or more years, the salary  
9 which would have been received for the position from which the leave of  
10 absence was taken shall be considered as compensation earnable if the  
11 employee's contribution thereon is paid by the employee. In addition,  
12 where a member has been a member of the state legislature for five or  
13 more years, earnable compensation for the member's two highest  
14 compensated consecutive years of service shall include a sum not to  
15 exceed thirty-six hundred dollars for each of such two consecutive  
16 years, regardless of whether or not legislative service was rendered  
17 during those two years.

18 (iv) For members employed less than full time under written  
19 contract with a school district, or community college district, in an  
20 instructional position, for which the member receives service credit of  
21 less than one year in all of the years used to determine the earnable  
22 compensation used for computing benefits due under RCW 41.32.497,  
23 41.32.498, and 41.32.520, the member may elect to have earnable  
24 compensation defined as provided in RCW 41.32.345. For the purposes of  
25 this subsection, the term "instructional position" means a position in  
26 which more than seventy-five percent of the member's time is spent as  
27 a classroom instructor (including office hours), a librarian, or a  
28 counselor. Earnable compensation shall be so defined only for the  
29 purpose of the calculation of retirement benefits and only as necessary  
30 to insure that members who receive fractional service credit under RCW  
31 41.32.270 receive benefits proportional to those received by members  
32 who have received full-time service credit.

33 (v) "Earnable compensation" does not include:

34 (A) Remuneration for unused sick leave authorized under RCW  
35 41.04.340, 28A.400.210, or 28A.310.490;

36 (B) Remuneration for unused annual leave in excess of thirty days  
37 as authorized by RCW 43.01.044 and 43.01.041.

1 (b) "Earnable compensation" for plan 2 and plan 3 members, means  
2 salaries or wages earned by a member during a payroll period for  
3 personal services, including overtime payments, and shall include wages  
4 and salaries deferred under provisions established pursuant to sections  
5 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
6 shall exclude lump sum payments for deferred annual sick leave, unused  
7 accumulated vacation, unused accumulated annual leave, or any form of  
8 severance pay.

9 "Earnable compensation" for plan 2 and plan 3 members also includes  
10 the following actual or imputed payments which, except in the case of  
11 (b)(ii)(B) of this subsection, are not paid for personal services:

12 (i) Retroactive payments to an individual by an employer on  
13 reinstatement of the employee in a position or payments by an employer  
14 to an individual in lieu of reinstatement in a position which are  
15 awarded or granted as the equivalent of the salary or wages which the  
16 individual would have earned during a payroll period shall be  
17 considered earnable compensation, to the extent provided above, and the  
18 individual shall receive the equivalent service credit.

19 (ii) In any year in which a member serves in the legislature the  
20 member shall have the option of having such member's earnable  
21 compensation be the greater of:

22 (A) The earnable compensation the member would have received had  
23 such member not served in the legislature; or

24 (B) Such member's actual earnable compensation received for  
25 teaching and legislative service combined. Any additional  
26 contributions to the retirement system required because compensation  
27 earnable under (b)(ii)(A) of this subsection is greater than  
28 compensation earnable under (b)(ii)(B) of this subsection shall be paid  
29 by the member for both member and employer contributions.

30 (11) "Employer" means the state of Washington, the school district,  
31 or any agency of the state of Washington by which the member is paid.

32 (12) "Fiscal year" means a year which begins July 1st and ends June  
33 30th of the following year.

34 (13) "Former state fund" means the state retirement fund in  
35 operation for teachers under chapter 187, Laws of 1923, as amended.

36 (14) "Local fund" means any of the local retirement funds for  
37 teachers operated in any school district in accordance with the  
38 provisions of chapter 163, Laws of 1917 as amended.

1       (15) "Member" means any teacher included in the membership of the  
2 retirement system. Also, any other employee of the public schools who,  
3 on July 1, 1947, had not elected to be exempt from membership and who,  
4 prior to that date, had by an authorized payroll deduction, contributed  
5 to the member reserve.

6       (16) "Membership service" means service rendered subsequent to the  
7 first day of eligibility of a person to membership in the retirement  
8 system: PROVIDED, That where a member is employed by two or more  
9 employers the individual shall receive no more than one service credit  
10 month during any calendar month in which multiple service is rendered.  
11 The provisions of this subsection shall apply only to plan 1 members.

12       (17) "Pension" means the moneys payable per year during life from  
13 the pension reserve.

14       (18) "Pension reserve" is a fund in which shall be accumulated an  
15 actuarial reserve adequate to meet present and future pension  
16 liabilities of the system and from which all pension obligations are to  
17 be paid.

18       (19) "Prior service" means service rendered prior to the first date  
19 of eligibility to membership in the retirement system for which credit  
20 is allowable. The provisions of this subsection shall apply only to  
21 plan 1 members.

22       (20) "Prior service contributions" means contributions made by a  
23 member to secure credit for prior service. The provisions of this  
24 subsection shall apply only to plan 1 members.

25       (21) "Public school" means any institution or activity operated by  
26 the state of Washington or any instrumentality or political subdivision  
27 thereof employing teachers, except the University of Washington and  
28 Washington State University.

29       (22) "Regular contributions" means the amounts required to be  
30 deducted from the compensation of a member and credited to the member's  
31 individual account in the member reserve. This subsection shall apply  
32 only to plan 1 members.

33       (23) "Regular interest" means such rate as the director may  
34 determine.

35       (24)(a) "Retirement allowance" for plan 1 members, means monthly  
36 payments based on the sum of annuity and pension, or any optional  
37 benefits payable in lieu thereof.

1 (b) "Retirement allowance" for plan 2 and plan 3 members, means  
2 monthly payments to a retiree or beneficiary as provided in this  
3 chapter.

4 (25) "Retirement system" means the Washington state teachers'  
5 retirement system.

6 (26)(a) "Service" for plan 1 members means the time during which a  
7 member has been employed by an employer for compensation.

8 (i) If a member is employed by two or more employers the individual  
9 shall receive no more than one service credit month during any calendar  
10 month in which multiple service is rendered.

11 (ii) As authorized by RCW 28A.400.300, up to forty-five days of  
12 sick leave may be creditable as service solely for the purpose of  
13 determining eligibility to retire under RCW 41.32.470.

14 (iii) As authorized in RCW 41.32.065, service earned in an out-of-  
15 state retirement system that covers teachers in public schools may be  
16 applied solely for the purpose of determining eligibility to retire  
17 under RCW 41.32.470.

18 (b) "Service" for plan 2 and plan 3 members, means periods of  
19 employment by a member for one or more employers for which earnable  
20 compensation is earned subject to the following conditions:

21 (i) A member employed in an eligible position or as a substitute  
22 shall receive one service credit month for each month of September  
23 through August of the following year if he or she earns earnable  
24 compensation for eight hundred ten or more hours during that period and  
25 is employed during nine of those months, except that a member may not  
26 receive credit for any period prior to the member's employment in an  
27 eligible position except as provided in RCW 41.32.812 and  
28 41.50.132((+)).

29 (ii) If a member is employed either in an eligible position or as  
30 a substitute teacher for nine months of the twelve month period between  
31 September through August of the following year but earns earnable  
32 compensation for less than eight hundred ten hours but for at least six  
33 hundred thirty hours, he or she will receive one-half of a service  
34 credit month for each month of the twelve month period((+)).

35 (iii) All other members in an eligible position or as a substitute  
36 teacher shall receive service credit as follows:

37 (A) A service credit month is earned in those calendar months where  
38 earnable compensation is earned for ninety or more hours;

1 (B) A half-service credit month is earned in those calendar months  
2 where earnable compensation is earned for at least seventy hours but  
3 less than ninety hours; and

4 (C) A quarter-service credit month is earned in those calendar  
5 months where earnable compensation is earned for less than seventy  
6 hours.

7 (iv) Any person who is a member of the teachers' retirement system  
8 and who is elected or appointed to a state elective position may  
9 continue to be a member of the retirement system and continue to  
10 receive a service credit month for each of the months in a state  
11 elective position by making the required member contributions.

12 (v) Any member of the teachers' retirement system plan 2 or plan 3  
13 who is elected to the state legislature has the option during a ninety-  
14 day period at the beginning of each term of office either to resume  
15 membership or to end membership in the retirement system and if  
16 otherwise eligible begin their retirement allowance. A state  
17 legislator who chooses to end membership at the beginning of a term of  
18 office and begin their retirement allowance shall neither make  
19 contributions nor earn service credit for the duration of that term.

20 (vi) Any member of the teachers' retirement system plan 2 or plan  
21 3 who is elected to a state elective position other than the state  
22 legislature has the option during a ninety-day period at the beginning  
23 of each term of office either to resume membership or to end membership  
24 in the retirement system and if otherwise eligible begin their  
25 retirement allowance. A state elected official other than a state  
26 legislator who chooses to end membership at the beginning of a term of  
27 office and begin their retirement allowance shall neither make  
28 contributions nor earn service credit for the duration of that term.

29 (vii) When an individual is employed by two or more employers the  
30 individual shall only receive one month's service credit during any  
31 calendar month in which multiple service for ninety or more hours is  
32 rendered.

33 (~~((vi))~~) (viii) As authorized by RCW 28A.400.300, up to forty-five  
34 days of sick leave may be creditable as service solely for the purpose  
35 of determining eligibility to retire under RCW 41.32.470. For purposes  
36 of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is  
37 equal to two service credit months. Use of less than forty-five days

1 of sick leave is creditable as allowed under this subsection as  
2 follows:

3 (A) Less than eleven days equals one-quarter service credit month;

4 (B) Eleven or more days but less than twenty-two days equals one-  
5 half service credit month;

6 (C) Twenty-two days equals one service credit month;

7 (D) More than twenty-two days but less than thirty-three days  
8 equals one and one-quarter service credit month;

9 (E) Thirty-three or more days but less than forty-five days equals  
10 one and one-half service credit month.

11 (~~((vii))~~) (ix) As authorized in RCW 41.32.065, service earned in an  
12 out-of-state retirement system that covers teachers in public schools  
13 may be applied solely for the purpose of determining eligibility to  
14 retire under RCW 41.32.470.

15 (~~((viii))~~) (x) The department shall adopt rules implementing this  
16 subsection.

17 (27) "Service credit year" means an accumulation of months of  
18 service credit which is equal to one when divided by twelve.

19 (28) "Service credit month" means a full service credit month or an  
20 accumulation of partial service credit months that are equal to one.

21 (29) "Teacher" means any person qualified to teach who is engaged  
22 by a public school in an instructional, administrative, or supervisory  
23 capacity. The term includes state, educational service district, and  
24 school district superintendents and their assistants and all employees  
25 certificated by the superintendent of public instruction; and in  
26 addition thereto any full time school doctor who is employed by a  
27 public school and renders service of an instructional or educational  
28 nature.

29 (30) "Average final compensation" for plan 2 and plan 3 members,  
30 means the member's average earnable compensation of the highest  
31 consecutive sixty service credit months prior to such member's  
32 retirement, termination, or death. Periods constituting authorized  
33 leaves of absence may not be used in the calculation of average final  
34 compensation except under RCW 41.32.810(2).

35 (31) "Retiree" means any person who has begun accruing a retirement  
36 allowance or other benefit provided by this chapter resulting from  
37 service rendered to an employer while a member.



1 (32) "Department" means the department of retirement systems  
2 created in chapter 41.50 RCW.

3 (33) "Director" means the director of the department.

4 (34) "State elective position" means any position held by any  
5 person elected or appointed to statewide office or elected or appointed  
6 as a member of the legislature.

7 (35) "State actuary" or "actuary" means the person appointed  
8 pursuant to RCW 44.44.010(2).

9 (36) "Substitute teacher" means:

10 (a) A teacher who is hired by an employer to work as a temporary  
11 teacher, except for teachers who are annual contract employees of an  
12 employer and are guaranteed a minimum number of hours; or

13 (b) Teachers who either (i) work in ineligible positions for more  
14 than one employer or (ii) work in an ineligible position or positions  
15 together with an eligible position.

16 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,  
17 through September 1, 1991, means a position which normally requires two  
18 or more uninterrupted months of creditable service during September  
19 through August of the following year.

20 (b) "Eligible position" for plan 2 and plan 3 on and after  
21 September 1, 1991, means a position that, as defined by the employer,  
22 normally requires five or more months of at least seventy hours of  
23 earnable compensation during September through August of the following  
24 year.

25 (c) For purposes of this chapter an employer shall not define  
26 "position" in such a manner that an employee's monthly work for that  
27 employer is divided into more than one position.

28 (d) The elected position of the superintendent of public  
29 instruction is an eligible position.

30 (38) "Plan 1" means the teachers' retirement system, plan 1  
31 providing the benefits and funding provisions covering persons who  
32 first became members of the system prior to October 1, 1977.

33 (39) "Plan 2" means the teachers' retirement system, plan 2  
34 providing the benefits and funding provisions covering persons who  
35 first became members of the system on and after October 1, 1977, and  
36 prior to July 1, 1996.

37 (40) "Plan 3" means the teachers' retirement system, plan 3

1 providing the benefits and funding provisions covering persons who  
2 first become members of the system on and after July 1, 1996, or who  
3 transfer under RCW 41.32.817.

4 (41) "Index" means, for any calendar year, that year's annual  
5 average consumer price index, Seattle, Washington area, for urban wage  
6 earners and clerical workers, all items compiled by the bureau of labor  
7 statistics, United States department of labor.

8 (42) "Index A" means the index for the year prior to the  
9 determination of a postretirement adjustment.

10 (43) "Index B" means the index for the year prior to index A.

11 (44) "Index year" means the earliest calendar year in which the  
12 index is more than sixty percent of index A.

13 (45) "Adjustment ratio" means the value of index A divided by index  
14 B.

15 (46) "Annual increase" means, initially, fifty-nine cents per month  
16 per year of service which amount shall be increased each July 1st by  
17 three percent, rounded to the nearest cent.

18 (47) "Member account" or "member's account" for purposes of plan 3  
19 means the sum of the contributions and earnings on behalf of the member  
20 in the defined contribution portion of plan 3.

21 (48) "Separation from service or employment" occurs when a person  
22 has terminated all employment with an employer.

23 (49) "Employed" or "employee" means a person who is providing  
24 services for compensation to an employer, unless the person is free  
25 from the employer's direction and control over the performance of work.  
26 The department shall adopt rules and interpret this subsection  
27 consistent with common law.

28 **Sec. 5.** RCW 41.32.263 and 1991 c 35 s 41 are each amended to read  
29 as follows:

30 A member of the retirement system who is a member of the state  
31 legislature or a state official eligible for the combined pension and  
32 annuity provided by RCW 41.32.497((7)) or 41.32.498(~~(7-as now or~~  
33 ~~hereafter amended)~~) shall have deductions taken from his or her salary  
34 in the amount of seven and one-half percent of earnable compensation  
35 and that service credit shall be established with the retirement system  
36 while such deductions are reported to the retirement system, unless he  
37 or she has by reason of his or her employment become a contributing

1 member of another public retirement system in the state of Washington.  
2 Such elected official who has retired or otherwise terminated his or  
3 her public school service may then elect to terminate his or her  
4 membership in the retirement system and receive retirement benefits  
5 while continuing to serve as an elected official. A member of the  
6 retirement system who had previous service as an elected or appointed  
7 official, for which he or she did not contribute to the retirement  
8 system, may receive credit for such legislative service unless he or  
9 she has received credit for that service in another state retirement  
10 system, upon making contributions in such amounts as shall be  
11 determined by the (~~board of trustees~~) director.

12 **Sec. 6.** RCW 41.35.030 and 2003 c 157 s 2 are each amended to read  
13 as follows:

14 Membership in the retirement system shall consist of all regularly  
15 compensated classified employees and appointive and elective officials  
16 of employers, as defined in this chapter, with the following  
17 exceptions:

18 (1) Persons in ineligible positions;

19 (2)(a) Persons holding elective offices or persons appointed  
20 directly by the governor: PROVIDED, That such persons shall have the  
21 option of applying for membership during such periods of employment:  
22 AND PROVIDED FURTHER, That any persons holding or who have held  
23 elective offices or persons appointed by the governor who are members  
24 in the retirement system and who have, prior to becoming such members,  
25 previously held an elective office, and did not at the start of such  
26 initial or successive terms of office exercise their option to become  
27 members, may apply for membership to be effective during such term or  
28 terms of office, and shall be allowed to establish the service credit  
29 applicable to such term or terms of office upon payment of the employee  
30 contributions therefor by the employee with interest as determined by  
31 the director and employer contributions therefor by the employer or  
32 employee with interest as determined by the director: AND PROVIDED  
33 FURTHER, That all contributions with interest submitted by the employee  
34 under this subsection shall be placed in the employee's individual  
35 account in the employee's savings fund and be treated as any other  
36 contribution made by the employee, with the exception that any  
37 contributions submitted by the employee in payment of the employer's

1 obligation, together with the interest the director may apply to the  
2 employer's contribution, shall not be considered part of the member's  
3 annuity for any purpose except withdrawal of contributions;

4 (b) A member holding elective office other than state elective  
5 office who has elected to apply for membership pursuant to (a) of this  
6 subsection and who later (~~((wishes to be))~~) is eligible for a retirement  
7 allowance shall have the option of ending his or her membership in the  
8 retirement system. A member (~~((wishing to end))~~) ending his or her  
9 membership under this subsection must file on a form supplied by the  
10 department a statement indicating that the member agrees to irrevocably  
11 abandon any claim for service for future periods served as an elected  
12 official. A member who receives more than fifteen thousand dollars per  
13 year in compensation for his or her elective service, adjusted annually  
14 for inflation by the director, is not eligible for the option provided  
15 by this subsection (2)(b);

16 (c) Any member of the school employees' retirement system plan 2 or  
17 plan 3 who is elected to the state legislature has the option during a  
18 ninety-day period at the beginning of each term of office either to  
19 resume membership or to end membership in the retirement system and if  
20 otherwise eligible begin their retirement allowance. A state  
21 legislator who chooses to end membership at the beginning of a term of  
22 office and begin their retirement allowance shall neither make  
23 contributions nor earn service credit for the duration of that term;

24 (d) Any member of the school employees' retirement system plan 2 or  
25 plan 3 who is elected to a state elective position other than the state  
26 legislature has the option during a ninety-day period at the beginning  
27 of each term of office either to resume membership or to end membership  
28 in the retirement system and if otherwise eligible begin their  
29 retirement allowance. A state elected official other than a state  
30 legislator who chooses to end membership at the beginning of a term of  
31 office and begin their retirement allowance shall neither make  
32 contributions nor earn service credit for the duration of that term;

33 (3) Retirement system retirees: PROVIDED, That following  
34 reemployment in an eligible position, a retiree may elect to  
35 prospectively become a member of the retirement system if otherwise  
36 eligible;

37 (4) Persons enrolled in state-approved apprenticeship programs,  
38 authorized under chapter 49.04 RCW, and who are employed by employers

1 to earn hours to complete such apprenticeship programs, if the employee  
2 is a member of a union-sponsored retirement plan and is making  
3 contributions to such a retirement plan or if the employee is a member  
4 of a Taft-Hartley retirement plan;

5 (5) Persons rendering professional services to an employer on a  
6 fee, retainer, or contract basis or when the income from these services  
7 is less than fifty percent of the gross income received from the  
8 person's practice of a profession;

9 (6) Substitute employees, except for the purposes of the purchase  
10 of service credit under rcw 41.35.033. Upon the return or termination  
11 of the absent employee a substitute employee is replacing, that  
12 substitute employee shall no longer be ineligible under this  
13 subsection;

14 (7) Employees who (a) are not citizens of the United States, (b) do  
15 not reside in the United States, and (c) perform duties outside of the  
16 United States;

17 (8) Employees who (a) are not citizens of the United States, (b)  
18 are not covered by chapter 41.48 RCW, (c) are not excluded from  
19 membership under this chapter or chapter 41.04 RCW, (d) are residents  
20 of this state, and (e) make an irrevocable election to be excluded from  
21 membership, in writing, which is submitted to the director within  
22 thirty days after employment in an eligible position;

23 (9) Employees who are citizens of the United States and who reside  
24 and perform duties for an employer outside of the United States:  
25 PROVIDED, That unless otherwise excluded under this chapter or chapter  
26 41.04 RCW, the employee may apply for membership (a) within thirty days  
27 after employment in an eligible position and membership service credit  
28 shall be granted from the first day of membership service, and (b)  
29 after this thirty-day period, but membership service credit shall be  
30 granted only if payment is made for the noncredited membership service  
31 under RCW 41.50.165(2), otherwise service shall be from the date of  
32 application.

33 **Sec. 7.** RCW 41.40.023 and 2001 c 37 s 1 are each amended to read  
34 as follows:

35 Membership in the retirement system shall consist of all regularly  
36 compensated employees and appointive and elective officials of  
37 employers, as defined in this chapter, with the following exceptions:

1 (1) Persons in ineligible positions;

2 (2) Employees of the legislature except the officers thereof  
3 elected by the members of the senate and the house and legislative  
4 committees, unless membership of such employees be authorized by the  
5 said committee;

6 (3)(a) Persons holding elective offices or persons appointed  
7 directly by the governor: PROVIDED, That such persons shall have the  
8 option of applying for membership during such periods of employment:  
9 AND PROVIDED FURTHER, That any persons holding or who have held  
10 elective offices or persons appointed by the governor who are members  
11 in the retirement system and who have, prior to becoming such members,  
12 previously held an elective office, and did not at the start of such  
13 initial or successive terms of office exercise their option to become  
14 members, may apply for membership to be effective during such term or  
15 terms of office, and shall be allowed to establish the service credit  
16 applicable to such term or terms of office upon payment of the employee  
17 contributions therefor by the employee with interest as determined by  
18 the director and employer contributions therefor by the employer or  
19 employee with interest as determined by the director: AND PROVIDED  
20 FURTHER, That all contributions with interest submitted by the employee  
21 under this subsection shall be placed in the employee's individual  
22 account in the employee's savings fund and be treated as any other  
23 contribution made by the employee, with the exception that any  
24 contributions submitted by the employee in payment of the employer's  
25 obligation, together with the interest the director may apply to the  
26 employer's contribution, shall not be considered part of the member's  
27 annuity for any purpose except withdrawal of contributions;

28 (b) A member holding elective office other than state elective  
29 office who has elected to apply for membership pursuant to (a) of this  
30 subsection and who later (~~wishes to be~~) is eligible for a retirement  
31 allowance shall have the option of ending his or her membership in the  
32 retirement system. A member (~~wishing to end~~) ending his or her  
33 membership under this subsection must file, on a form supplied by the  
34 department, a statement indicating that the member agrees to  
35 irrevocably abandon any claim for service for future periods served as  
36 an elected official. A member who receives more than fifteen thousand  
37 dollars per year in compensation for his or her elective service,

adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (3)(b);

(c) Any member of the public employees' retirement system who is elected to the state legislature has the option during a ninety-day period at the beginning of each term of office either to resume membership or to end membership in the retirement system and if otherwise eligible begin their retirement allowance. A state legislator who chooses to end membership at the beginning of a term of office and begin their retirement allowance shall neither make contributions nor earn service credit for the duration of that term;

(d) Any member of the public employees' retirement system who is elected to a state elective position other than the state legislature has the option during a ninety-day period at the beginning of each term of office either to resume membership or to end membership in the retirement system and if otherwise eligible begin their retirement allowance. A state elected official other than a state legislator who chooses to end membership at the beginning of a term of office and begin their retirement allowance shall neither make contributions nor earn service credit for the duration of that term;

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan except as follows:

(a) In any case where the retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide;

(b) An employee shall be allowed membership if otherwise eligible while receiving survivor's benefits;

(c) An employee shall not either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of: (i) Membership in the plan created under chapter 2.14 RCW; or (ii) enrollment under the relief and compensation provisions or the pension provisions of the volunteer fire fighters' relief and pension fund under chapter 41.24 RCW;

1 (d) Except as provided in RCW 41.40.109, on or after July 25, 1999,  
2 an employee shall not be excluded from membership or denied service  
3 credit pursuant to this subsection solely on account of participation  
4 in a defined contribution pension plan qualified under section 401 of  
5 the internal revenue code;

6 (e) Employees who have been reported in the retirement system prior  
7 to July 25, 1999, and who participated during the same period of time  
8 in a defined contribution pension plan qualified under section 401 of  
9 the internal revenue code and operated wholly or in part by the  
10 employer, shall not be excluded from previous retirement system  
11 membership and service credit on account of such participation;

12 (5) Patient and inmate help in state charitable, penal, and  
13 correctional institutions;

14 (6) "Members" of a state veterans' home or state soldiers' home;

15 (7) Persons employed by an institution of higher learning or  
16 community college, primarily as an incident to and in furtherance of  
17 their education or training, or the education or training of a spouse;

18 (8) Employees of an institution of higher learning or community  
19 college during the period of service necessary to establish eligibility  
20 for membership in the retirement plans operated by such institutions;

21 (9) Persons rendering professional services to an employer on a  
22 fee, retainer, or contract basis or when the income from these services  
23 is less than fifty percent of the gross income received from the  
24 person's practice of a profession;

25 (10) Persons appointed after April 1, 1963, by the liquor control  
26 board as agency vendors;

27 (11) Employees of a labor guild, association, or organization:  
28 PROVIDED, That elective officials and employees of a labor guild,  
29 association, or organization which qualifies as an employer within this  
30 chapter shall have the option of applying for membership;

31 (12) Retirement system retirees: PROVIDED, That following  
32 reemployment in an eligible position, a retiree may elect to  
33 prospectively become a member of the retirement system if otherwise  
34 eligible;

35 (13) Persons employed by or appointed or elected as an official of  
36 a first class city that has its own retirement system: PROVIDED, That  
37 any member elected or appointed to an elective office on or after April  
38 1, 1971, shall have the option of continuing as a member of this system



1 in lieu of becoming a member of the city system. A member who elects  
2 to continue as a member of this system shall pay the appropriate member  
3 contributions and the city shall pay the employer contributions at the  
4 rates prescribed by this chapter. The city shall also transfer to this  
5 system all of such member's accumulated contributions together with  
6 such further amounts as necessary to equal all employee and employer  
7 contributions which would have been paid into this system on account of  
8 such service with the city and thereupon the member shall be granted  
9 credit for all such service. Any city that becomes an employer as  
10 defined in RCW 41.40.010(4) as the result of an individual's election  
11 under this subsection shall not be required to have all employees  
12 covered for retirement under the provisions of this chapter. Nothing  
13 in this subsection shall prohibit a city of the first class with its  
14 own retirement system from: (a) Transferring all of its current  
15 employees to the retirement system established under this chapter, or  
16 (b) allowing newly hired employees the option of continuing coverage  
17 under the retirement system established by this chapter.

18 Notwithstanding any other provision of this chapter, persons  
19 transferring from employment with a first class city of over four  
20 hundred thousand population that has its own retirement system to  
21 employment with the state department of agriculture may elect to remain  
22 within the retirement system of such city and the state shall pay the  
23 employer contributions for such persons at like rates as prescribed for  
24 employers of other members of such system;

25 (14) Employees who (a) are not citizens of the United States, (b)  
26 do not reside in the United States, and (c) perform duties outside of  
27 the United States;

28 (15) Employees who (a) are not citizens of the United States, (b)  
29 are not covered by chapter 41.48 RCW, (c) are not excluded from  
30 membership under this chapter or chapter 41.04 RCW, (d) are residents  
31 of this state, and (e) make an irrevocable election to be excluded from  
32 membership, in writing, which is submitted to the director within  
33 thirty days after employment in an eligible position;

34 (16) Employees who are citizens of the United States and who reside  
35 and perform duties for an employer outside of the United States:  
36 PROVIDED, That unless otherwise excluded under this chapter or chapter  
37 41.04 RCW, the employee may apply for membership (a) within thirty days  
38 after employment in an eligible position and membership service credit

1 shall be granted from the first day of membership service, and (b)  
2 after this thirty-day period, but membership service credit shall be  
3 granted only if payment is made for the noncredited membership service  
4 under RCW 41.50.165(2), otherwise service shall be from the date of  
5 application;

6 (17) The city manager or chief administrative officer of a city or  
7 town, other than a retiree, who serves at the pleasure of an appointing  
8 authority: PROVIDED, That such persons shall have the option of  
9 applying for membership within thirty days from date of their  
10 appointment to such positions. Persons serving in such positions as of  
11 April 4, 1986, shall continue to be members in the retirement system  
12 unless they notify the director in writing prior to December 31, 1986,  
13 of their desire to withdraw from membership in the retirement system.  
14 A member who withdraws from membership in the system under this section  
15 shall receive a refund of the member's accumulated contributions.

16 Persons serving in such positions who have not opted for membership  
17 within the specified thirty days, may do so by paying the amount  
18 required under RCW 41.50.165(2) for the period from the date of their  
19 appointment to the date of acceptance into membership;

20 (18) Persons serving as: (a) The chief administrative officer of  
21 a public utility district as defined in RCW 54.16.100; (b) the chief  
22 administrative officer of a port district formed under chapter 53.04  
23 RCW; or (c) the chief administrative officer of a county who serves at  
24 the pleasure of an appointing authority: PROVIDED, That such persons  
25 shall have the option of applying for membership within thirty days  
26 from the date of their appointment to such positions. Persons serving  
27 in such positions as of July 25, 1999, shall continue to be members in  
28 the retirement system unless they notify the director in writing prior  
29 to December 31, 1999, of their desire to withdraw from membership in  
30 the retirement system. A member who withdraws from membership in the  
31 system under this section shall receive a refund of the member's  
32 accumulated contributions upon termination of employment or as  
33 otherwise consistent with the plan's tax qualification status as  
34 defined in internal revenue code section 401.

35 Persons serving in such positions who have not opted for membership  
36 within the specified thirty days, may do so at a later date by paying  
37 the amount required under RCW 41.50.165(2) for the period from the date  
38 of their appointment to the date of acceptance into membership;

1       (19) Persons enrolled in state-approved apprenticeship programs,  
2 authorized under chapter 49.04 RCW, and who are employed by local  
3 governments to earn hours to complete such apprenticeship programs, if  
4 the employee is a member of a union-sponsored retirement plan and is  
5 making contributions to such a retirement plan or if the employee is a  
6 member of a Taft-Hartley retirement plan;

7       (20) Beginning on July 22, 2001, persons employed exclusively as  
8 trainers or trainees in resident apprentice training programs operated  
9 by housing authorities authorized under chapter 35.82 RCW, (a) if the  
10 trainer or trainee is a member of a union-sponsored retirement plan and  
11 is making contributions to such a retirement plan or (b) if the  
12 employee is a member of a Taft-Hartley retirement plan.

--- END ---

# DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	8/9/05	Age 70 ½ and Opt in/Opt Out

## SUMMARY OF BILL:

This bill impacts the Public Employee's Retirement System, School Employee's Retirement System, and Teachers Retirement System by allowing members who retire on or after age seventy and one-half, and who fulfill the 1 month separation requirement, to return to work without restriction; upon receipt of retirement benefits such an individual would cease active membership and no longer make contributions nor receive service credit. Current state elected and appointed officials are exempt from this act unless they leave elected office, or are re-elected after the effective date of the act.

The bill also allows state elective officials the option to continue or resume membership, and if otherwise eligible, retire and receive their retirement allowance at the beginning of each term of office. A state elected official member who chooses to end membership at the beginning of a term of office shall neither make contributions nor earn service credit for the duration of that term.

Effective Date: 90 days after session.

## CURRENT SITUATION:

After a one-month separation, PERS, SERS, and TRS 2/3 retirees may return to work for 867 hours per calendar year or school year before their benefit is suspended. PERS 1 members may return to work after a 3-month separation and work up to 1,500 hours per calendar year before their benefit is suspended. TRS 1 members may return to work after a one-month separation and work for up to 1,500 hours per school year before their benefit is suspended.

State elected official members of most Washington State Retirement Systems and plans must separate from service in order to retire and begin receipt of their retirement benefits regardless of age. While the rules for state elected officials vary by system and plan, the Teachers' Retirement System Plan 1 is a notable distinction in permitting state elected officials, if otherwise eligible, to begin their retirement benefit while serving in state elective office.

## MEMBERS IMPACTED:

We estimate that potentially all active members in these systems could be affected by the age 70 1/2 portion of this bill. Active members currently over age 70 1/2 would be impacted on the effective date of the bill. This includes 375 out of 156,256 active members in PERS, 31 out of 66,634 in TRS, and 135 out of 49,854 in SERS.

We estimate that relatively few members in these systems could be affected by the opt-in/opt-out portion of this bill, although nearly all members could potentially become elected officials. The opt-in/opt-out portion of the bill would impact the current state elected officials in the systems if they are reelected following the effective date. This includes 148 active members in PERS, 1 in TRS (not including 4 in TRS 1 who already have the opt-in/opt-out provision), and 0 in SERS.

We estimate that a typical member impacted by the age 70 1/2 provision of this bill would receive a benefit of about \$11,700 per year, but would give up additional benefit accruals of about \$1,000 per year. For example, a PERS member who retired at age 74 with 19 years of service would receive an annual benefit of \$13,200; waiting one additional year to retire would result in an annual benefit of \$14,400. A typical SERS member who retired at age 74 with 12 years of service would receive an annual benefit of \$4,600; waiting one additional year to retire would result in an annual benefit of \$5,200. The impact on long service members over age 70 1/2, and not subject to the 30-year service cap, is greater than the impact on short service members.

## **ASSUMPTIONS:**

Our current retirement rate assumptions have all members retiring at age 70 or earlier. The members over 70 1/2 who continue working after we have assumed they will retire, typically produce an actuarial experience gain to the system. In general, the benefits earned for each year of additional service and increases in pay after age 70 are not as valuable as the retirement benefits that could have been received in the year. This is especially true for Plan 1 members who already have hit the 30-year maximum on service.

To determine the cost of the age 70 1/2 provision, we started with an assumption change for the retirement rates at age 70 and beyond. For PERS and SERS, we replaced our 100% retirement assumption at age 70 with 25% per year from age 70 to 81 and 100% at age 82. We did not change the rates before age 70. For TRS, we did not change our 100% assumption at age 70, because the number of active TRS members working past age 70 is not significant compared to PERS and SERS, and the oldest active TRS member is 78, compared to 88 in both PERS and SERS. So we would not expect any significant cost impact for TRS.

For PERS and SERS, we compared the costs of the plans with the new retirement assumption to the costs using an alternative retirement assumption. We increased the 25% rate to 37.5% as an estimate of how many more active members over age 70 1/2 would retire after the bill is effective.

## FISCAL IMPACT:

### Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

<i>(Dollars in Millions)</i>		Current	Increase	Total
<b>Actuarial Present Value of Projected Benefits</b> (The Value of the Total Commitment to all Current Members)	<b>PERS</b>	\$ 28,099	\$ 19	\$ 28,118
	<b>TRS</b>	\$ 15,616	\$ 0	\$ 15,616
	<b>SERS</b>	\$ 2,126	\$ 1	\$ 2,127
<b>Unfunded Actuarial Accrued Liability</b> (The Portion of the Plan 1 Liability that is Amortized at 2024)	<b>PERS</b>	\$ 2,563	\$ 8	\$ 2,571
	<b>TRS</b>	\$ 1,415	\$ 0	\$ 1,415
	<b>SERS</b>	\$ N/A	\$ N/A	\$ N/A
<b>Unfunded Liability (PBO)</b> (The Value of the Total Commitment to all Current Members Attributable to Past Service)	<b>PERS</b>	\$ (673)	\$ 18	\$ (655)
	<b>TRS</b>	\$ (235)	\$ 0	\$ (235)
	<b>SERS</b>	\$ (439)	\$ 1	\$ (438)

### Increase in Contribution Rates: (Effective 9/1/06)

	PERS	TRS	SERS
<b>Current Members</b>			
Employee	0.02%	0.00%	0.01%
Employer State*	0.03%	0.00%	0.02%
<b>New Entrants**</b>			
Employee	0.01%	0.00%	0.00%
Employer State	0.01%	0.00%	0.00%

\* 0.01% of the total employer rate increase goes toward amortizing the Plan 1 UAAL.

\*\*Rate change applied to future new entrant payroll and used for fiscal budget determinations only. A single supplemental rate increase, equal to the increase for current members, would apply initially for all members or employers.

## Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

<b>Costs (in Millions):</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>	<b>Total</b>
<b>2006-2007</b>				
<b>State:</b>				
General Fund	\$0.3	\$0.0	\$0.1	\$0.4
Non-General Fund	<u>\$0.6</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.6</u>
<b>Total State</b>	<b>\$0.9</b>	<b>\$0.0</b>	<b>\$0.1</b>	<b>\$1.0</b>
Local Government	\$0.9	\$0.0	\$0.1	\$1.0
Total Employer	\$1.8	\$0.0	\$0.2	\$2.0
Total Employee	\$0.9	\$0.0	\$0.0	\$0.9
<b>2007-2009</b>				
<b>State:</b>				
General Fund	\$0.8	\$0.0	\$0.2	\$1.0
Non-General Fund	<u>\$1.6</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$1.6</u>
<b>Total State</b>	<b>\$2.4</b>	<b>\$0.0</b>	<b>\$0.2</b>	<b>\$2.6</b>
Local Government	\$2.2	\$0.0	\$0.4	\$2.6
Total Employer	\$4.6	\$0.0	\$0.6	\$5.2
Total Employee	\$2.2	\$0.0	\$0.1	\$2.3
<b>2006-2031</b>				
<b>State:</b>				
General Fund	\$13.9	\$0.0	\$2.2	\$16.1
Non-General Fund	<u>\$25.4</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$25.4</u>
<b>Total State</b>	<b>\$39.3</b>	<b>\$0.0</b>	<b>\$2.2</b>	<b>\$41.5</b>
Local Government	\$35.4	\$0.0	\$3.6	\$39.0
Total Employer	\$74.7	\$0.0	\$5.8	\$80.5
Total Employee	\$31.5	\$0.0	\$0.6	\$32.1

## State Actuary's Comments:

The postponed retirements after age 70 1/2 currently produce actuarial gains. The age 70 1/2 portion of the bill would reduce these gains. The opt-in/opt-out provision of the bill would apply to a small group of members and the associated cost would be insufficient to increase rates.

## STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same methods and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Teacher's Retirement System, School Employees' Retirement System, and Public Employees' Retirement System. Membership data, assets, and Fiscal Budget Determinations were based on preliminary 2004 data.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following: The retirement rate assumptions for PERS and SERS were changed. The retirement rate of 100% at age 70 was changed to 25% from age 70 to 81 and 100% at age 82.
4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This draft fiscal note is intended for use only during the 2006 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.
8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members. Rate increases are based on rates that exclude the cost of gain sharing.

## GLOSSARY OF ACTUARIAL TERMS:

**Actuarial accrued liability:** Computed differently under different funding methods, the actuarial accrued liability generally represents the portion of the present value of fully projected benefits attributable to service credit that has been earned (or accrued) as of the valuation date.

**Actuarial Present Value:** The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

**Aggregate Funding Method:** The Aggregate Funding Method is a standard actuarial funding method. The annual cost of benefits under the Aggregate Method is equal to the normal cost. The method does not



produce an unfunded liability. The normal cost is determined for the entire group rather than an individual basis.

**Entry Age Normal Cost Method (EANC):** The EANC method is a standard actuarial funding method. The annual cost of benefits under EANC is comprised of two components:

- Normal cost; plus
- Amortization of the unfunded liability

The normal cost is determined on an individual basis, from a member's age at plan entry, and is designed to be a level percentage of pay throughout a member's career.

**Normal Cost:** Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

**Pension Benefit Obligation (PBO):** The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

**Projected Benefits:** Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

**Unfunded Liability (Unfunded PBO):** The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

**Unfunded Actuarial Accrued Liability (UAAL):** The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.

# Select Committee on Pension Policy

## LEOFF 1 Benefit Cap

(September 12, 2005)

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### **Proposal**

Representatives of active members of the Law Enforcement Officers' and Fire Fighters' Plan 1 (LEOFF 1) have proposed removing or raising the cap that limits members' maximum retirement benefit to 60 percent of Final Average Salary (FAS).

### **Staff**

Robert Wm. Baker, Senior Research Analyst  
(360) 586-9237

### **Members Impacted**

As will be reported in the upcoming 2004 valuation, the LEOFF 1 plan had 848 active members and 8,542 annuitants as of September 30, 2004. Of these remaining active members, 454 are subject to the 60 percent benefit cap.

### **Current Situation**

When first founded in 1971, LEOFF 1 had no benefit cap. With the passage of Chapter 120, Laws of 1974, members' benefits were capped at 60 percent of FAS. Those hired into LEOFF 1 positions on or after February 19, 1974, – the effective date of the act – are subject to the 60 percent cap. Those hired prior to that date are not subject to the cap.

Of the 8,542 LEOFF 1 annuitants counted in the 2004 actuarial valuation, 2,345 were service retirees who became members prior to February 19, 1974. Of those, 717 had a benefit that was greater than 60 percent of their FAS.

In addition to LEOFF 1 members hired on or after February 19, 1974, both the Public Employees' Retirement System (PERS) Plan 1 and the Teachers' Retirement System (TRS) Plan 1 have provisions capping retirement benefits at 60 percent of Average Final Compensation (AFC).

Unlike LEOFF 1, the benefit cap in PERS 1 and TRS 1 was part of the original plan design, not added later. The Washington State Patrol Retirement System also has a benefit cap, but at 75 percent of FAS instead of 60 percent.

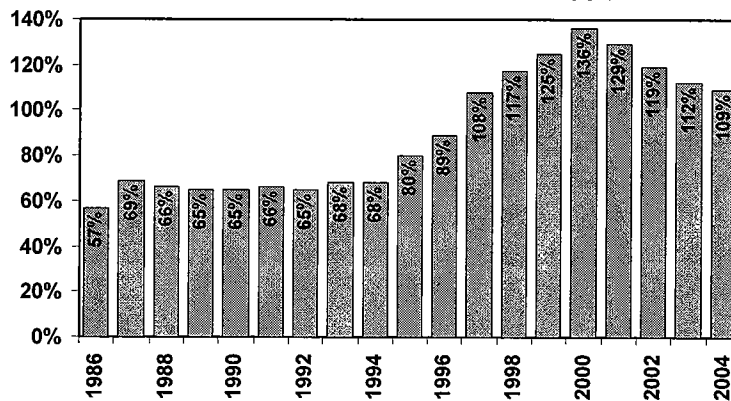
Unlike LEOFF 1, no LEOFF 2 members are subject to a benefit cap. LEOFF 2 uses a sixty month period for determining a member's FAS compared to the two year average in LEOFF 1; members are also required to be age 53 to receive an unreduced benefit compared to age 50 in LEOFF 1. Despite the differences in the Plan 1 and Plan 2 provisions, both are still age-based plans.

The remaining plans 2/3 also have no benefit cap and are age-based plans as opposed to the TRS 1 and PERS 1 designs, which are service-based. The School Employees' Retirement System (SERS), PERS, and TRS plans 2/3 require members to be age 65 in order to receive an unreduced defined benefit.

### **Surplus Status**

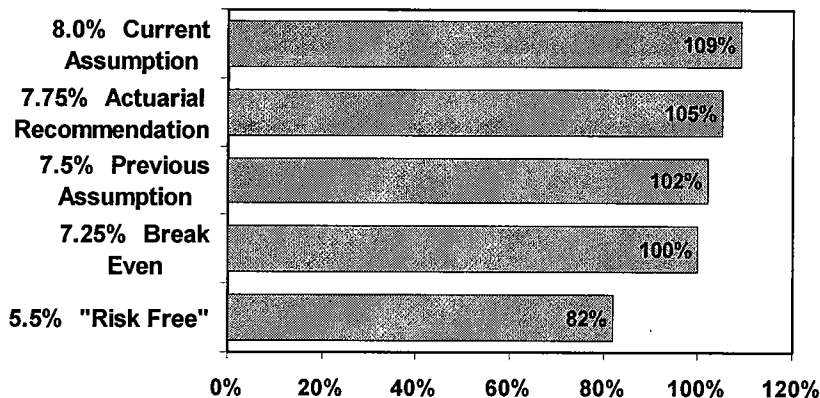
At the height of the previous investment cycle in 2000, the plan had a funded ratio of 136 percent (see Figure 1, below). At that point, the funding section of the chapter LEOFF 1 was amended to include the following provision: "No employer or member contribution is required after June 30, 2000, unless the most recent valuation study for Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 indicates the plan has unfunded liabilities." For the most recent valuation period, the funding ratio was 109 percent.

**Figure 1**  
**LEOFF 1 Funded Ratio: 1986 - 2004**



As seen in the above illustration, a plan's funding ratio can be volatile. It is subject to the not only the vagaries of the investment markets, but also changes in the plan's economic assumptions as well. An example of this is the change in the assumed rate of return on plan assets; in 2000 the assumed rate of return was increased from 7.5 percent to 8.0 percent. By assuming a higher investment return on assets, fewer contributions are needed to cover its liabilities. Similarly, a given dollar amount of assets will represent a greater funding ratio under an 8.0 percent rate of return assumption than under a 7.5 percent rate of return assumption (see Figure 2).

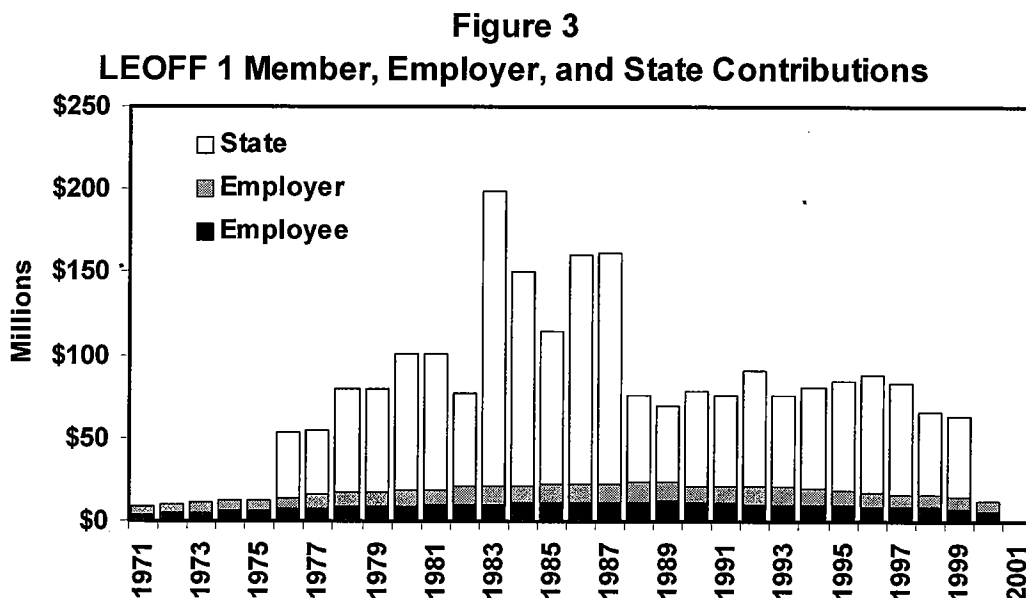
**Figure 2**  
**LEOFF 1 Funded Ratio by Select Interest Rates**



## Contributions

When established on March 1, 1970, the LEOFF Plan 1 was to be funded through member, employer, and state contributions. The state's contribution was determined through the plan's first actuarial valuation performed by Milliman & Robertson, Inc. Consulting Actuaries. That valuation was completed on October 9, 1970. The report valued the current service liability of the system at 30.27 percent of salary and the unfunded liability for prior service at 14.89 percent of salary, for a total required contribution of 45.16 percent of salary. As the member and employer contributions were set in statute at 6.0 percent each, the state's contribution obligation in the first biennium was the remaining 33.16 percent of salary.

The state did not make contributions to LEOFF 1 in the first five years of its existence. But in the subsequent years, from 1976 through 1999, the state made the necessary appropriations and contributions (see Figure 3).



It is likely that the five-year delay in funding by the state resulted in a subsequently higher average contribution rate than the original recommendation. By the end of 2000, the state's contribution rate over the entire funding period averaged 40.4 percent of salary - over three-fourths of all the contributions to LEOFF 1 were state contributions (see Appendix A).

### Active Member Profile

As will be reported in the 2004 valuation, the average age of the remaining active LEOFF 1 member is 54.8 years and their average member service is 30.2 years. For members to be eligible for retirement in LEOFF 1 they need to be 50 years of age with at least five years of service. As of the 2004 valuation, only 62 members were not retirement eligible, 12 of whom were not vested. The following sections provide some additional detail on active LEOFF 1 members.

*Category:* The 848 active members are comprised of 408 police officers and 440 fire fighters. The majority of police officer active members are not subject to the benefit cap, while the majority of fire fighter active members are subject to the cap (see Figure 4). Among fire fighters, members from first-class cities represent the majority of active members; this is a departure from the police officer employer distribution and is likely a result of a greater use of volunteer fire fighters in rural areas.

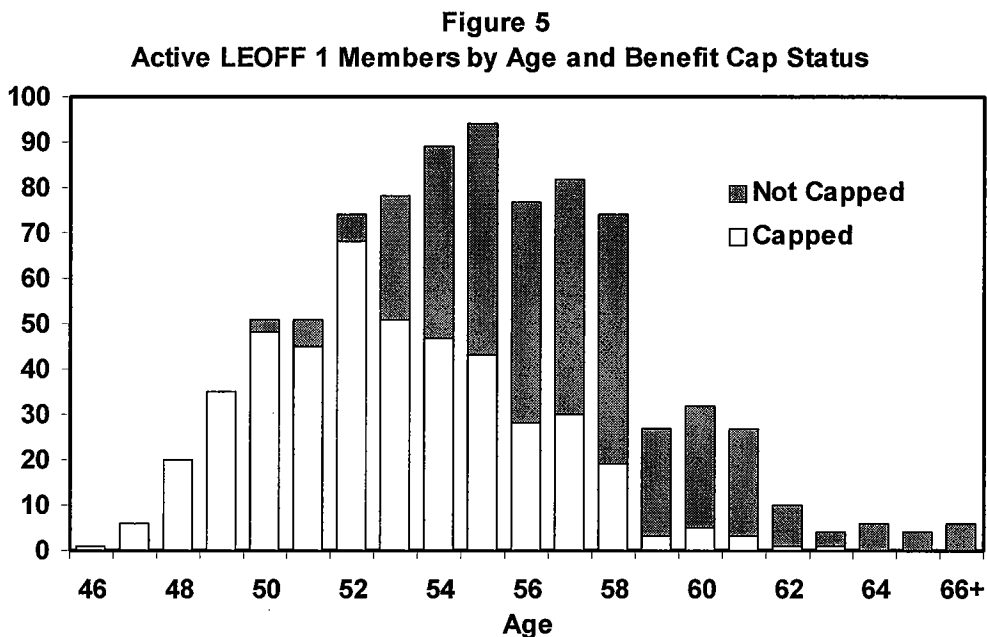
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**Figure 4**

**Active LEOFF 1 Members by Category, Employer, and  
Benefit Cap Status**

	<b>Not Capped</b>	<b>Capped</b>	<b>Total</b>
<b>Police Officers</b>	210	198	408
1 <sup>st</sup> Class City	101	75	176
Other City	42	71	113
County	67	52	119
<b>Fire Fighters</b>	184	256	440
1 <sup>st</sup> Class City	114	121	235
Other Agency	66	130	196
Port	4	5	9
<b>TOTAL</b>	394	454	848

**Age:** Since the benefit cap legislation was prospective from February 19, 1974, it would hold that members subject to the cap would generally be younger than those not subject to the cap. While not all members were hired at the same age, records show that higher percentages of older members are not subject to the benefit cap (see Figure 5).



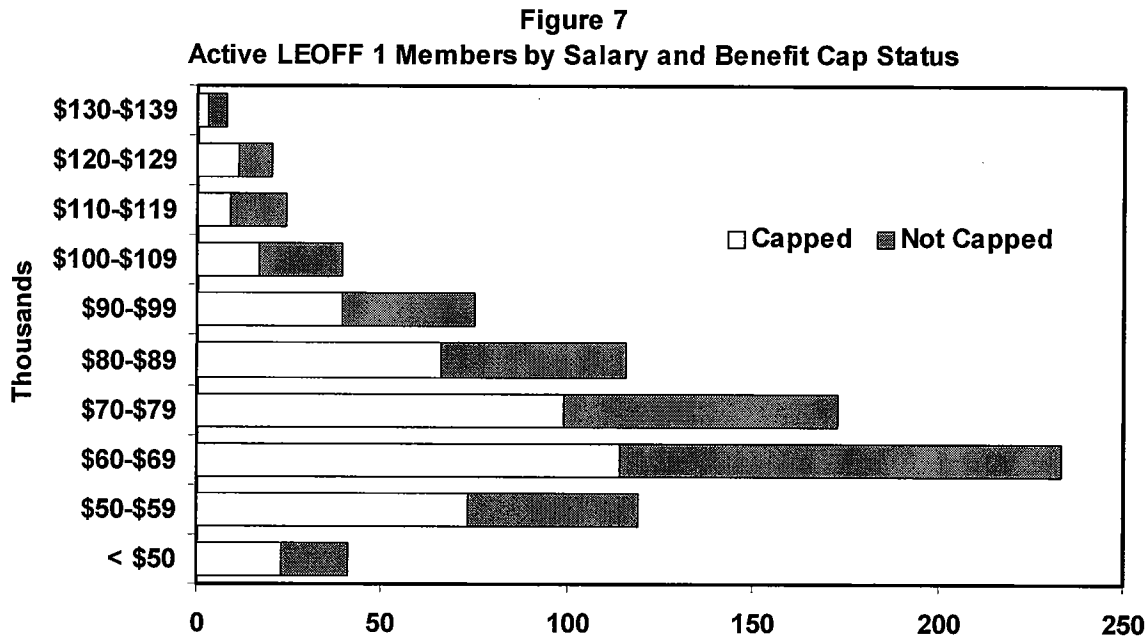
**Service:** In general, those members with over 30 years of service would not be subject to the benefit cap, while those with less than 30 years of service would. There are instances, however, of those who may have become members prior to February 19, 1974, but have had breaks in service. As a result, there are several members with relatively short periods of service who are not subject to the benefit cap (see Figure 6, next page).

**Figure 6**  
**Active LEOFF 1 Members by Service and Benefit Cap Status**

Years of Service	Not Capped	Capped	Total
5-9	0	2	2
10-14	1	0	1
15-19	0	4	4
20-24	3	14	17
25-29	41	372	413
30-34	286	62	348
35 and over	63	0	63
Total	394	454	848

*Salary:* It could easily be assumed that those who are not subject to the benefit cap would have higher salaries than those who are subject to the cap. After all, they typically have longer periods of service that could translate into higher salaries. However, this does not appear to be the case. The salaries of those who are subject to the cap are not appreciably different from those who are not subject to the cap (see Figure 7 next page). For instance, among the 166 members earning \$90,000 or more, 87 were not subject to the cap and 79 were. And of the 28 members earning \$120,000 or more, 14 were not subject to the cap and 14 were. This is likely due to the steep salary/promotion schedule typical among police and fire organizations.





As these characteristics show, the only significant variable having a bearing on whether a member's benefit is capped or not is their length of service. Those with more than 30 years of service, as of 2004, are sure to have a benefit that is not capped. Those with less than 30 years of service are likely to have a benefit that is capped (save for those who gained membership before February 19, 1974, and had a significant break in service.)

## History

Two bills were introduced during the 2004 legislative session related to the 60 percent cap in LEOFF 1. HB 2416 proposed raising the limit to 70 percent of FAS and HB 2914 proposed eliminating the cap entirely; both bills received a hearing, but neither moved from committee.

Companion bills HB 1873 and SB 5901 were introduced in the 2005 legislative session that proposed rescinding the LEOFF 1 60 percent cap. Neither received a hearing.

## Policy Considerations

Among the general policies found in the funding chapter (RCW 41.45) is the following: "Fund, to the extent feasible, benefit increases for all plan members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service." As of the 2004 valuation, the average remaining active member is already retirement

eligible. For a plan that isn't fully funded, there would be scant time for members and employers to contribute to a benefit increase. Because LEOFF 1 is in surplus status at this time, any benefit increase would draw on that surplus. The cost of this proposal would increase the likelihood that the plan would come out of full funding in the future. Also, if the plan does come out of full funding, the plan would be projected to resume funding earlier and at a higher rate.

Another policy issue to consider is the inconsistent treatment of members within the same plan. While the provisional differences in LEOFF 1 and LEOFF 2 are typical of closed and open plans, it is rare for such differences to be present within the same plan.

A serious policy concern would be leapfrogging. One of the common criticisms of the Plan 1 design is that members' benefits are maximized at 30 years of service ( $2\% \times 30 \text{ years of service} = 60\% \text{ of AFC}$ ). Were the cap to be raised or eliminated in the LEOFF 1 Plan, members of the PERS and TRS Plans 1 may request a similar benefit increase, which would have a much higher cost.

### Policy Questions

To help the committee decide whether to move forward with this issue, members may want to deliberate via the following issues:

- Have the original goals and/or incentives changed?
- Is this benefit improvement in keeping with the policies acknowledging the need for earlier retirement among police officers and fire fighters?
- Is there an overarching need to reward or retain long-tenured LEOFF 1 members?
- Could or should this issue be addressed outside of the retirement system?
- Would this benefit be retroactive? Would currently retired members with more than 30 years of service have their benefits adjusted?
- Would this spur retirees to return to active LEOFF membership? There are currently 638 service retirees under the age of 60.

### **Possible Options**

If the committee wants to move forward with this issue, there are a number of approaches it could take. Here is a short list of possible options and the fiscal impact of each:

#### *1. Eliminate the Benefit Cap*

This option was originally priced in the fiscal note for HB 2914 from the 2004 legislative session. More recent calculations were done based on the 2004 Actuarial Valuation. Removing the cap would increase liabilities in the plan by \$22 million. Because the plan is currently in surplus funded status, this increase in liability would not raise contribution rates.

#### *2. Raise the Benefit Cap to 70 percent*

This option was originally priced in the fiscal note for HB 2416 from the 2004 legislative session. More recent calculations were done based on the 2004 Actuarial Valuation. Raising the cap from 60 percent to 70 percent would increase liabilities in the plan by \$17 million. Because the plan is currently in surplus funded status, this increase in liability would not raise contribution rates.

#### *3. Raise or Eliminate the Benefit Cap with an Age Qualification*

This option would allow members to accrue a benefit greater than 60 percent of their FAS as long as they served until at least 60 years of age. The LEOFF 1 Plan currently allows an unreduced benefit at age 50 with five years of service. Increasing the retirement age to 60 in order to receive an increased benefit should result in a savings component to each of the above proposals. Eliminating the benefit cap with the age qualifier would increase plan liabilities by \$11 million. Raising the cap from 60 percent to 70 percent with the age qualifier would increase plan liabilities by \$8.5 million.

While an age qualifier would lower the liabilities related to these benefit proposals, it would probably also result in additional policy considerations. Age standards tend to result in "cliff" benefits – significant differences in benefits with very small differences in

ages; a member who was 59 with 36 years of service would be eligible for a lesser benefit than a member who was 60 with 33 years of service. Would such a member be eligible for proportionate benefits?

Note: If the above proposals were to raise the benefit cap, but with an accrual that was less than the current 2 percent per year, the increased liability and contributions would be proportionate to the proposed rate of accrual relative to 2 percent. For instance, an accrual rate of 1 percent per year beyond 30 years of service would result in an increased liability half that of a 2 percent per year accrual.

#### *4. Retain the Current Benefit Cap*

This option adds no liability to the plan.

#### **Stakeholder Input**

Correspondence from:

Kelly L. Fox, President, Washington State Council of Fire Fighters (see Attachment).

Philip A Talmadge, Talmadge Law Group PLLC (see Attachment).

Richard Warbrouck, Retired Fire Fighters of Washington (see Attachment).

#### **Committee Actions**

In June, the Executive Committee of the SCPP recommended that this issue be heard by the full committee.

The full committee heard the first presentation of this issue at the July hearing. Questions from committee members warranted an additional presentation.

#### **Next Steps**

The Executive Committee of the SCPP shall decide whether to forward a recommendation to the full committee.



## ***Washington State Council of Fire Fighters***

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July 18, 2005

Chair Fromhold, Vice-Chair Fraser, Committee members:

I want to thank you for your early interim consideration of the LEOFF 1 Service Cap issue. After reviewing the June 21, 2005, Executive Committee materials regarding this topic, I would like to provide the following input on the policy questions and possible options:

### **Policy Questions**

- *Have the original goals and/or incentives changed?*

The LEOFF 1 system changes in 1974 were instituted to ensure the long term viability of the pension fund. LEOFF 1 is in surplus, and removal of the service credit cap will not increase the plan's future funding requirements.

- *Is this benefit improvement in keeping with the policies acknowledging the need for earlier retirement among police officers and fire fighters?*

Modifying the service credit cap for LEOFF 1 members does not limit the member's ability to retire upon reaching eligibility age (50) and service years (20).

- *Is there a need to reward or retain long-tenured LEOFF 1 members? If so, what about PERS 1 and TRS 1 members?*

Retention of leadership and institutional memory within the Public Safety sector are critically important. The inability to accrue service credits serves as a disincentive to continued service. Action by this committee and the Legislature in 2006 will assist local governments to retain senior public safety professionals.

- *Can this issue be addressed outside the retirement system?*

It is appropriate for this issue to be addressed within the retirement system, and the fully-funded status of LEOFF 1 (before and after modification of the service credit cap) provides a revenue source, and does not require the many distressed local governments to make additional contributions.

➤ *Retroactivity?*

There are approximately 500 active members who are impacted by the service credit cap enacted on February 19, 1974. With legislation during the 2006 session, only about two-thirds of those members would require retroactivity. Members who have continued their service without additional service credits should not be treated differently than those who are nearing 30 years of service.

**Possible Options**

If the committee wants to move forward with this issue, there are a number of approaches they could take. Here is a short list of possible options:

- *Eliminate the benefit cap.*
- *Raise the benefit cap to a fixed level (64%, 66%, 68%, 70%).*
- *Eliminate the benefit cap, with a 1% (1.25%, 1.5%) per year accrual after 30 years of service.*
- *Raise the benefit cap to a fixed level, with a 1% (1.25%, 1.5%) per year accrual after 30 years of service.*

The WSCFF seeks to remove the service credit cap for LEOFF 1 members hired on or after February 19, 1974, utilizing the same service credit calculation as those hired prior to February 19, 1974. We ask the SCPP to recommend HB 1873/SB 5901 to the 2006 Legislature for the policy reasons listed above. A reduction of the service credit accrual rate may be pertinent for a system that has a projected UAAL. LEOFF 1 is in surplus and is projected to stay fully funded after implementation of this legislation.

- *Retain the current benefit cap.*

Active LEOFF 1 fire fighters will be present to testify on this important issue. Please utilize this opportunity to ask any questions of these valuable public safety professionals. Should you have any questions for our organization, or need to reach any of the fire fighters who have testified, please contact Bud Sizemore, Legislative Liaison, at 253-951-5090 or me at 360-791-6201.

Sincerely,

Kelly Fox  
opeiu23/afl-cio

TALMADGE LAW GROUP PLLC  
18010 SOUTHCENTER PARKWAY  
TUKWILA, WASHINGTON 98188  
(206) 574-6661 (206) 575-1397 FAX

November 5, 2004

Senator Karen Fraser  
Select Committee on Pension Policy  
PO Box 40422  
Olympia, WA 98504-0422

Re: LEOFF Plan 1 Benefit Cap

Dear Senator Fraser:

I am writing to you on behalf of the Retired Firefighters of Washington (RFFOW). RFFOW is aware that the Executive Committee of the Select Committee on Pension Policy has placed an item regarding a LEOFF Plan 1 Benefit Cap on its agenda for November 9, 2004. RFFOW opposes lifting the benefit cap for LEOFF Plan 1 retirees, particularly given the contribution holiday employers and members have enjoyed since June 30, 2000.

As the Committee knows, there have been a number of previous efforts to address the present 60% cap on service retirement benefit for LEOFF Plan 1 law enforcement officers and firefighters. HB 2416 (2004) proposed to increase that cap from 60% to 70%. HB 2914 (2004) proposed to delete the cap entirely. RFFOW believes various legislators will offer legislation to alter the cap in the 2005 session of the Legislature.

The most glaring flaw in such proposals is their significant impact on the funding of LEOFF Plan 1. The Committee has been briefed by the State Actuary's office on whether a surplus or deficit exists in LEOFF Plan 1. To some extent, this calculation depends on whether the value of the LEOFF Plan 1 assets are determined on the basis of market or actuarial value. As the briefing from the Office of State Actuary on May 12, 2004 indicated, as of September 30, 2002, there was a \$278 million deficit in LEOFF Plan 1 funds if the funds are valued on the basis of their market value. If the funds are valued on the basis of their actuarial value, the Actuary concluded that there could be a surplus of as much as \$757 million as of September 30, 2002. However, even under the rosier

actuarial value of the LEOFF Plan 1 funds, the Actuary concluded that the surplus will disappear and employer/member contributions must resume for the 2011-2013 biennium. The Actuary has recently opined that the LEOFF Plan 1 system may be a deficit position as early as 2008.

Given this uncertainty about the value of the LEOFF Plan 1 funds, the absence of employer/member contributions since June 30, 2000, and the impact of removal of the benefit cap, the enactment of legislation removing the cap for the LEOFF Plan 1 retirement benefits is extremely unwise.

RFFOW also believes that the removal of the benefit cap does not constitute good public policy. The LEOFF Plan 1 members who are likely to gain from the removal of the 60% cap on service pensions are probably serving in administrative positions. These individuals have had the benefit of the contribution holiday since June 30, 2000, a substantial financial benefit as they have not been required to contribute 6% of present salary annually to LEOFF Plan 1 since that date. Moreover, many of these individuals are receiving compensation for administrative work, as opposed to active police or fire work. Administrators tend to receive higher pay so that the removal of the cap will cost the system more.

The removal of the cap will offer a tempting target for abuse. Individuals could return to duty from disability status to substantially increase their pension. In Tacoma, an assistant chief of police returned to duty after 10 years of receiving disability payments. This individual worked a single day and then retired on a service pension. He gained two percent for each of the ten years he was on disability, and retired, not at the assistant chief's salary when he became disabled, but at the current assistant chief's salary.

In summary, RFFOW asks the Committee to carefully assess any proposed legislation to alter the cap on service retirements under LEOFF Plan 1. At a minimum, the Committee should receive the latest information from the Office of State Actuary regarding the present surplus/deficit in LEOFF Plan 1. The Committee should also have the best estimate from the Actuary regarding the fiscal impact of any alteration of the cap for service retirement benefits under LEOFF Plan 1.

RFFOW will continue to oppose legislation altering the service retirement benefit cap so long as the contribution holiday persists, and other more pressing needs for reform in the LEOFF Plan 1 benefit structure remain.



November 5, 2004  
Page 3 of 3

If RFFOW can provide any additional information to the Committee regarding these matters, please do not hesitate to contact Richard C. Warbrouck or me.

Very truly yours,

Philip A. Talmadge

PAT:gab

cc: Richard C. Warbrouck  
Executive Committee members  
Matt Smith

**RECEIVED**

**JUL 15 2005**

Office of  
The State Actuary

July 13, 2005

Representative Bill Fromhold  
Chair, Select Committee on Pension Policy  
239 JLOB  
PO Box 40600  
Olympia, WA 98504

Dear Representative Fromhold,

I want to congratulate you on your election as Chair of the Select Committee on Pension Policy. Your knowledge of the pension systems and your concern for the working men and women of the State of Washington is a real asset as you chair the interim meetings of the Select Committee.

I regret that I will not be able to attend the committee meeting scheduled for July 19, 2005 and would like to again address by letter Item Number (4) of the meeting agenda "LEOFF 1 Benefit CAP."

The Directors of the Retired Firefighters of Washington at a special meeting on July 8, 2005 discussed this proposal and once again are unanimously opposed.

As you are aware there have been previous efforts to change this 60% CAP on LEOFF 1 service pensions. HB 2416 (2004) proposed to increase the CAP from 60% to 70% and HB 2914 (2004) proposed to delete the CAP entirely. HB 1873/SB5901 (2005) was introduced to remove the CAP however these bills were never scheduled for a Hearing by the Appropriations or Ways and Means committee.

Recently there has been some discussion in the area of retire/rehire to raise the 60% CAP of the PERS and TERS retirement systems. This as you remember was first discussed in addressing the teacher shortage and the problem of losing key state employees as they complete their 30 years of service.

I would like to point out that we don't have this problem in the fire service. We have no difficulty getting qualified applicants seeking entry-level police or fire positions. All of the promotions are made from within a particular agency or from the police and fire service in general, which create new entry-level positions.

If the CAP was increased to 70% for PERS and TERS there would be no inequity created as the

members or employees and the employers would continue making contributions for any additional service credit. Due to the contribution holiday in the LEOFF 1 system any increase in the CAP would be a gift as the members would receive additional service credit without making a contribution and would create an additional liability to the LEOFF 1 system. Some of the proponents of removing the CAP want to go back to 1974 when there was no CAP on service retirements. If you use that logic then the contributions should also be reinstated as they were in 1974.

These members have benefited from the contribution holiday and have not made a pension contribution since 2000. They have saved 6% of salary and at the same time have earned 2% of service credit since that date. On a salary of \$80,000 per year they have had a pay increase of \$4,800 per year. That amount over the last five years would equal \$24,000 plus compounding interest. If this amount was deposited in an employer matching deferred compensation program only offered after 1974, the retirement supplement would be significant. By removing the CAP this scenario would continue for another five or ten years reaching a value that would be in the hundreds of thousands of dollars. The members would also earn additional service credit during those years which would increase the amount of their individual pension benefit. Most of the people who would be affected by this change have been promoted or will be promoted to an administrative position just before retirement and will receive a retirement allowance based on the salary of that new administrative position.

Some of these members were in an entry level position as police patrolmen or firefighters in 2000 when the contributions were discontinued and have since been promoted to a higher position, some Battalion Chiefs, Assistant Chiefs and even to the position of Chief of the Department, thereby increasing their retirement benefit without having made a single pension contribution.

This is not what was intended when the retirement plan was developed. We feel that this is a selfish request on the part of those who will benefit and if approved would be abusive and a gift of government funds. We have learned to accept what is sometimes referred to as discrepancies as a result of the changes in the LEOFF II retirement plan.

We now have people working shoulder to shoulder in the same department, in the same position with different retirement benefits. Now the contribution holiday has increased the discrepancy and created another inequity. The members who are under LEOFF II while filling the same position are receiving less salary than those who are under the LEOFF 1 plan.

The LEOFF II members are making a pension contribution to a pension with less benefits. The LEOFF 1 members are no longer making a 6% contribution which relates to an increase in take home pay for these LEOFF 1 members. The take home salary for the LEOFF 1 members is about 12 to 14 percent higher than the take home salary for the LEOFF II members.

The removal of the 60% CAP would create another inequity and would encourage the LEOFF 1 members to work longer and would reduce the promotional opportunities for the LEOFF II members.

We have always favored retirement plans that would allow members to retire after 30 years

particularly if they are in good health and would not want to encourage these members to work longer and become susceptible to a serious injury.

Thank you for your consideration and I would look forward to any future discussion regarding this issue.

Sincerely,

Richard C. Warbrouck



**Retired Firefighters of Washington**

15310 163rd Ct. SE  
Renton, WA 98058-8122  
425-226-3793  
rffow@attbl.com

**RECEIVED**

**NOV 3 - 2004**

Office of  
The State Actuary

Richard Warbrouck  
President

Bob Burch  
Secretary

November 2, 2004

The Honorable Senator Karen Fraser  
Chair, Select Committee on Pension Policy  
PO Box 40422  
Olympia, WA 98504-0422

The Honorable Representative Steve Conway  
Vice Chair, Select Committee on Pension Policy  
PO Box 40600  
Olympia, WA 98504-0600

Mr. Matt Smith, State Actuary  
Office of the State Actuary  
PO Box 40814  
Olympia, WA 98504-0914

Dear Senator Fraser, Representative Conway and Mr. Smith,

I want to thank you for your consideration of the LEOFF 1 issues that were on the Select Committee on Pension Policy October 18, 2004 meeting agenda.

We are opposed to the request to remove the 60% CAP on LEOFF 1 service pensions. We testified in opposition of HB 2914 and HB 2416 when these bills were being considered by the House Appropriation Committee during the 2004 Legislative Session. It would be inappropriate to remove the CAP unless the full contributions as delineated in the statute are restored. This would include retroactive contributions as well.

We see this as a selfish request from a small group who are now benefiting from the contribution holiday and earning additional service credit without making a contribution. These same members have received a 6% increase in their take home pay for the last four years while earning service credit of 2% per year or 8% pension. Six percent of an annual salary of \$80,000 equals \$4,800 per year or \$19,200.00 for the four-year period. Eliminating the CAP would extend this existing inequity even further.

We feel it would be inappropriate for the Legislature to grant an additional benefit to a small group after the majority of the members in the plan have retired and especially

when it's being reported by the Actuary that the Fund could have an un-funded liability in 2011.

We also feel that there are some existing inequities as addressed in the letter to the Committee from Senator Morton that should be corrected before creating new benefits.

We have not taken a position on the problem outlined by Senator Morton at this time but we are very sympathetic to the women in this situation, especially when this problem was resolved for a select small group of women in ESB 6380.

Sincerely,

A handwritten signature in cursive script that reads "R.C. Warbrouck". The signature is written in dark ink and is positioned below the word "Sincerely,".

Richard C. Warbrouck



## Retired Firefighters of Washington

15310 163rd Ct. SE  
Renton, WA 98058-8122  
425-226-3793  
rffow@attbi.com

Richard Warbrouck  
President

Bob Burtch  
Secretary

September 27, 2005

Representative Bill Fromhold, Chair  
Select Committee on Pension Policy  
PO Box 40914  
Olympia, WA 98504-0914

The Retired Firefighters of Washington want to again register our opposition to Item Number 6 (LEOFF 1 Benefit CAP) on the agenda for the Select Committee Meeting scheduled for September 27, 2005.

I would request that the members of the Committee consider the following before voting on this important proposal.

The prior pension law RCW 41.18 which was in effect before 1970 when the LEOFF 1 system was established provided two percent of salary per year of service for a line of duty disability pension and two percent of salary per year of service for service retirement. To my knowledge there was no CAP on either of the two pensions. When the LEOFF 1 law was passed the legislature placed a fifty percent CAP on a line of duty disability pension and did not establish a CAP on a service pension.

In 1974 when the legislature was cautioned regarding the possibility of an un-funded liability in the LEOFF 1 system they amended the law. They were concerned about the retirement age for police and fire and unlike all the other retirement plans there was no CAP on service retirements. We were successful in convincing the legislature that although not popular, the early age for retirement was absolutely necessary for police and fire due to the nature of their work. We agreed to establish a CAP for service retirement to be in line with the other pension systems. Frankly, in those days very few members worked beyond a twenty-five year career in the fire service. In 1977 there was an even greater concern about the un-funded liability, the LEOFF 1 system was closed and the LEOFF II was established.

I personally feel that the real inequity is with the fifty percent CAP on disability pensions for those with more than twenty-five years of service and not with the sixty percent on service pensions especially when the members are no longer making pension contributions.

Removing the CAP would now create an unfair advantage for those members who are still working and a disadvantage for those who were hired in 1974 and retired after thirty years of service in 2004 or 2005.

It's been reported by the proponents that there are now about 500 members who could be affected by this change, however I think that only a very small percentage would take advantage of this change, mainly those who are in administrative positions.

LEOFF II created a disparity in pension benefits for members working shoulder to shoulder in the fire service. The contribution holiday for the LEOFF 1 members created another disparity, a salary disparity. The LEOFF 1 members received an increase in take-home pay equal to the amount the LEOFF II members are paying in pension contributions. Another disparity will be created if the CAP is removed as many employers will promote LEOFF 1 senior members to higher salaried administrative positions as they will not have to make any pension contributions for the LEOFF 1 members who are promoted.

Removing the CAP will encourage the LEOFF 1 members in administrative positions to work longer reducing the opportunity for promotions for LEOFF II members which relates to fewer entry level positions being available.

Removing the CAP can create pension abuse. In many departments promotions can be made without a competitive test, just by the stroke of a pen. LEOFF 1 members after completing their 30<sup>th</sup> year can be promoted to an administrative position and retire a year or two later with increased service credit and a higher retirement salary.

Just recently in a small fire district an Assistant Chief was promoted to Chief of the Department even though he said he would only stay for one year. His retirement pay will now be based on the salary for the Chief of the Department. What makes this absurd is that the member will not make any pension contributions for the year he is establishing eligibility to retire based on the salary for the department chief. In addition to this, keep in mind that he has not made a pension contribution for the last five years.

In view of what is being reported in the media regarding various states and their pension problems, I believe the local media would be quick to criticize the legislature if additional service credit was given without any additional contributions.

If the Committee members would like to provide the opportunity for LEOFF 1 members to earn additional service credit they should do as they did for the LEOFF II members in HB 1269 in 2005. HB 1269 allowed LEOFF II members to purchase an additional 5 years of service credit by paying the amount equal to the contributions the employer and employee would have paid.

*R.C. Warbrouck*  
Richard C. Warbrouck



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HOUSE BILL 1873

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State of Washington

59th Legislature

2005 Regular Session

**By** Representatives Simpson, Ericks, Haler, P. Sullivan, Appleton, O'Brien, Ormsby, Morrell, Morris, Williams, Dunn, Chase and Campbell

Read first time 02/09/2005. Referred to Committee on Appropriations.

1       AN ACT Relating to removing the cap on retirement benefits of  
2 members of the law enforcement officers' and fire fighters' retirement  
3 system plan 1; and amending RCW 41.26.100.

4       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       **Sec. 1.** RCW 41.26.100 and 1991 c 343 s 16 are each amended to read  
6 as follows:

7       A member upon retirement for service shall receive a monthly  
8 retirement allowance computed according to his or her completed  
9 creditable service credit years of service as follows: Five years but  
10 under ten years, one-twelfth of one percent of his or her final average  
11 salary for each month of service; ten years but under twenty years,  
12 one-twelfth of one and one-half percent of his or her final average  
13 salary for each month of service; and twenty years and over one-twelfth  
14 of two percent of his or her final average salary for each month of  
15 service: PROVIDED, That the recipient of a retirement allowance who  
16 shall return to service as a law enforcement officer or fire fighter  
17 shall be considered to have terminated his or her retirement status and  
18 he or she shall immediately become a member of the retirement system  
19 with the status of membership he or she had as of the date of

1 retirement. Retirement benefits shall be suspended during the period  
2 of his or her return to service and he or she shall make contributions  
3 and receive service credit. Such a member shall have the right to  
4 again retire at any time and his or her retirement allowance shall be  
5 recomputed, and paid, based upon additional service rendered and any  
6 change in final average salary(~~(: PROVIDED FURTHER, That no retirement~~  
7 ~~allowance paid pursuant to this section shall exceed sixty percent of~~  
8 ~~final average salary, except as such allowance may be increased by~~  
9 ~~virtue of RCW 41.26.240, as now or hereafter amended)~~).

--- END ---

# FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	2/16/05	HB 1873/SB 5901

## SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 (LEOFF 1) by removing the provision that limits the retirement allowance for those who became members on or after February 19, 1974 to 60% of their final average salary.

Effective Date: 90 days after session

## CURRENT SITUATION:

Currently, the maximum retirement allowance for a member of LEOFF 1 who became a member on or after February 19, 1974 is 60% of their final average salary. Those who became members before February 19, 1974 have no such limit on their retirement allowance.

## MEMBERS IMPACTED:

We estimate that 529 active members hired on or after 2/19/1974 out of the total 991 active members of this plan could be affected by this bill. Additional members could be affected if they returned to work and earn over 30 years of service.

Each year of additional service credit beyond 30 years would result in an increase of about \$120 in monthly pension payments per person (based on a current annual salary of \$71,924).

## ASSUMPTIONS:

We assumed that half of the future disabled retirees with at least 34 years of service will elect the proposed service retirement benefit (68% of pay before-tax) in lieu of the 50% of pay tax-free disability benefit (maximum of 60% with 2 eligible dependents). We also assumed that this proposed benefit change would alter future service retirement behavior in the plan. We subtracted 0.01 from the retirement rates from age 50 to 54, and subtracted 0.02 from the rates from age 55 to 59. The impact of the disability and retirement assumption change is reflected in the cost of this proposal.

## FISCAL IMPACT:

### Description:

There is no immediate fiscal impact while the plan remains in a surplus or fully funded position. The current plan is projected to remain fully funded because the market value of assets exceeds the liabilities by \$39 million (at 9/30/2003). This proposal would reduce the surplus, but as long as a surplus remains on a market value basis, we would not project the plan to emerge from full funding under current long-term assumptions. However, if the plan experiences short-term actuarial losses, the plan would be more likely to emerge from full funding as a result of the proposed benefit increase. Also, if the plan does come out of full funding, the plan would be projected to resume funding earlier and at a higher rate.

### Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

<b>Law Enforcement Officers' and Police and Fire Fighters Retirement System:</b>			
<i>(Dollars in Millions)</i>	<b>Current</b>	<b>Increase</b>	<b>Total</b>
<b>Actuarial Present Value of Projected Benefits</b> (The Value of the Total Commitment to all Current Members)	\$4,342	\$23	\$4,365
<b>Unfunded Actuarial Accrued Liability</b> (The Portion of the Plan 1 Liability that is Amortized at 2024)	(\$462)	\$23	(\$439)
<b>Unfunded Liability (PBO)</b> (The Value of the Total Commitment to all Current Members Attributable to Past Service)	(\$521)	\$16	(\$505)

### Increase in Contribution Rates: (Effective 9/1/2005)

Employee	0.00%
Employer State	0.00%

### Fiscal Budget Determinations:

There is no projected increase in funding expenditures.

### State Actuary's Comments:

We have projected that the cost of this bill would draw down a portion of the plan's current surplus, but would not increase the plan's future funding requirements. This projection reflects the future recognition of prior asset gains and losses not yet fully recognized under the asset smoothing method and reflects the cost of this proposed plan change. The plan's actual funded status will vary depending on the plan's actual experience and could easily be different than projected over the short-term.

## STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Law Enforcement Officers' and Fire Fighters' Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:
4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

## GLOSSARY OF ACTUARIAL TERMS:

**Actuarial Present Value:** The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

**Projected Benefits:** Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

**Normal Cost:** Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

**Unfunded Actuarial Accrued Liability (UAAL):** The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all Plan 1, 2 and 3 members until the year 2024.

**Pension Benefit Obligation (PBO):** The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

**Unfunded Liability (Unfunded PBO):** The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

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HOUSE BILL 2416

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State of Washington

58th Legislature

2004 Regular Session

By Representatives Simpson, G., Delvin, Cooper and Chase

Read first time 01/14/2004. Referred to Committee on Appropriations.

1       AN ACT Relating to raising the sixty percent cap on retirement  
2 allowances from the law enforcement officers' and fire fighters'  
3 retirement system plan 1; and amending RCW 41.26.100.

4       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       **Sec. 1.** RCW 41.26.100 and 1991 c 343 s 16 are each amended to read  
6 as follows:

7       A member upon retirement for service shall receive a monthly  
8 retirement allowance computed according to his or her completed  
9 creditable service credit years of service as follows: Five years but  
10 under ten years, one-twelfth of one percent of his or her final average  
11 salary for each month of service; ten years but under twenty years,  
12 one-twelfth of one and one-half percent of his or her final average  
13 salary for each month of service; and twenty years and over one-twelfth  
14 of two percent of his or her final average salary for each month of  
15 service: PROVIDED, That the recipient of a retirement allowance who  
16 shall return to service as a law enforcement officer or fire fighter  
17 shall be considered to have terminated his or her retirement status and  
18 he or she shall immediately become a member of the retirement system  
19 with the status of membership he or she had as of the date of

1 retirement. Retirement benefits shall be suspended during the period  
2 of his or her return to service and he or she shall make contributions  
3 and receive service credit. Such a member shall have the right to  
4 again retire at any time and his or her retirement allowance shall be  
5 recomputed, and paid, based upon additional service rendered and any  
6 change in final average salary: PROVIDED FURTHER, That no retirement  
7 allowance paid pursuant to this section shall exceed ((~~sixty~~)) seventy  
8 percent of final average salary, except as such allowance may be  
9 increased by virtue of RCW 41.26.240, as now or hereafter amended.

--- END ---

# DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	9/8/05	HB 2416 (2004)

## SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 (LEOFF 1) by increasing the maximum service retirement allowance of those who became members on or after February 19, 1974, to 70 percent of their final average salary.

Effective Date: 90 days after session

## CURRENT SITUATION:

Currently, the maximum service retirement allowance for a member of LEOFF 1 who became a member on or after February 19, 1974, is 60 percent of their final average salary.

## MEMBERS IMPACTED:

We estimate that 454 active members hired on or after February 19, 1974, out of the total 848 active members of this plan could be affected by this bill. Additional members could be affected if they return to work and earn over 30 years of service.

Each year of additional service credit beyond 30 years would result in an increase of about \$125 in monthly pension payments per person (based on a current annual salary of \$75,222). Since the new service cap would be 35 years, this could result in a benefit increase of up to \$625 per month for an average member.

## ASSUMPTIONS:

We assumed that members with at least 30 years of service, who may be eligible for a disability retirement, will elect the proposed service retirement benefit with a 70 percent cap in lieu of the 50 percent of pay tax-free disability benefit. The cost of this proposal was based on the change in the liability after this disability assumption change. We assumed that this proposed benefit change would alter future retirement behavior in the plan. We subtracted 0.01 from the retirement rates from age 50 to 54 and subtracted 0.02 from the rates from age 55 to 59. The impact of the retirement assumption change is reflected in the cost.



## FISCAL IMPACT:

### Description:

There is no immediate fiscal impact while the plan remains in a surplus, or fully funded, position. The current plan is expected to remain fully funded because the market value of assets exceed the liabilities by \$365 million. This proposal would reduce the surplus, but as long as there is still a surplus on a market value basis, we would not expect the plan to come out of full funding. However, if there is some adverse experience due to the assumptions not being realized, the plan would be more likely to come out of full funding as a result of the proposed benefit increase. Also, if the plan does come out of full funding, the plan would be projected to resume funding earlier and at a higher rate.

### Actuarial Determinations:

Although the bill will increase the present value of benefits payable under the system (for existing members impacted by this bill) as shown below, it will not impact the fully funded status. Therefore, there will be no fiscal impact:

<i>(Dollars in Millions)</i>	System: LEOFF 1		
	Current	Increase	Total
<b>Actuarial Present Value of Projected Benefits</b> (The Value of the Total Commitment to All Current Members)	\$4,330	\$17	\$4,347
<b>Unfunded Actuarial Accrued Liability</b> (The Portion of the Plan 1 Liability that is Amortized at 2024)	\$(336)	\$17	\$(319)
<b>Unfunded Liability (PBO)</b> (The Value of the Total Commitment to All Current Members Attributable to Past Service)	\$(385)	\$12	\$(373)
<b>Increase in Contribution Rates: (Effective 9/1/2006)</b>			
Employee	0.00%		
Employer State	0.00%		

### Fiscal Budget Determinations:

There is no projected increase in funding expenditures.

### State Actuary's Comments:

We have projected that this bill would use up part of the plan's surplus, but that it would not increase the plan's future funding requirements. This projection reflects the future recognition of prior asset gains and losses and the impact of this proposed plan change. The plan's actual funded status will vary depending on the plan's actual experience and could easily be different than projected over the short-term.

## STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets, and assumptions as those used in preparing the September 30, 2003, actuarial valuation report of the Law Enforcement Officers' and Firefighters' Retirement System. Fiscal Budget results were based on preliminary 2004 data.
2. As with the costs developed in the actuarial valuation, the emerging costs of the system will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill that were not used or disclosed in the actuarial valuation report include the following:

Reduced Retirement Rates											
Age	50	51	52	53	54	55	56	57	58	59	
Retirement Rate*	0.08	0.06	0.07	0.07	0.09	0.14	0.14	0.14	0.21	0.21	

\*Male and female

4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This draft fiscal note is intended for use only during the 2006 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.
8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members.

## GLOSSARY OF ACTUARIAL TERMS:

**Actuarial accrued liability:** Computed differently under different funding methods, the actuarial accrued liability generally represents the portion of the present value of fully projected benefits attributable to service credit that has been earned (or accrued) as of the valuation date.

**Actuarial Present Value:** The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

**Aggregate Funding Method:** The Aggregate Funding Method is a standard actuarial funding method. The annual cost of benefits under the Aggregate Method is equal to the normal cost. The method does not produce an unfunded liability. The normal cost is determined for the entire group rather than an individual basis.

**Entry Age Normal Cost Method (EANC):** The EANC method is a standard actuarial funding method. The annual cost of benefits under EANC is comprised of two components:

- Normal cost; plus
- Amortization of the unfunded liability

The normal cost is determined on an individual basis, from a member's age at plan entry and is designed to be a level percentage of pay throughout a member's career.

**Normal Cost:** Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

**Pension Benefit Obligation (PBO):** The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

**Projected Benefits:** Pension benefit amounts that are expected to be paid in the future, taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

**Unfunded Liability (Unfunded PBO):** The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

**Unfunded Actuarial Accrued Liability (UAAL):** The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.



WASHINGTON STATE LEGISLATURE

# Office of the State Actuary

## DRAFT MINUTES

October 6, 2005  
3:00 - 5:00 PM

PSERS Pension Hearing  
Walla Walla, Washington

Representative Fromhold and Representative Crouse held a PSERS pension hearing on October 6, 2005 at the Walla Walla Airport conference room in Walla Walla, Washington.

Staff in attendance: Matt Smith, State Actuary

Representative Fromhold called the hearing to order at 1:00PM.

### (1) Panel Discussion

Representative Fromhold introduced the following panel:

Mike Ryherd, Teamsters Local 117  
Al Scamahorn, Teamsters Local 117  
John Christy, Correctional Officer

### (2) Public Testimony

The following individuals testified (not in order of testimony):

Cindi Caughron  
Scott Nettles  
Roger Benson  
Harold Coty  
Robert Percidiell  
Charles Miller  
Jim Neuschwander  
Leon Kersuan  
Micah Melton  
John Christy  
Glenda Barron

Don Lien  
Freta Watko  
Cindy Davenport  
Daniel Wooton  
Ralph Dilla  
Anthony Serven  
Kelly Brown  
Larry Hensley  
Spencer Thal  
Steve Sinclair  
Phil Mathison

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***Materials submitted during testimony (available upon request):***

- Photographs of correctional officer following on-the-job assault.
- Photographs of work boots, knee brace and orthotics worn by Correctional Officer John Christy to accommodate pain from osteoarthritis and chronic joint pain while on the job.
- "Prisoners of Life: A Study of Occupational Stress Among State Corrections' Officers" a study commissioned by the American Federation of State, County and Municipal Employees (March 1982)

***Summary of comments provided during public testimony:***

- The ability of corrections officers to work until age 65 (safety of officers, facility staff, inmates and the public at large)
- The physical and emotional demands required to work in corrections and the associated impacts on the work force at large ("hands on" contact with inmates, assaults, abusive behavior of inmates, health risks, etc.)
- The aging of the correctional workforce while the age of the Intensive Management Unit (IMU) inmates remains relatively young
- Lower normal retirement age in PSERS (age 55 or entirely service based; 20 or 25 and out)
- Continued interest in "Rule of 90" retirement eligibility
- Concerns about portability between PERS and PSERS for members who elect to transfer to PSERS.
- Adequacy of PERS 2/3 benefit after early retirement reduction
- The ability to transfer PERS service credit to PSERS for members who elect to transfer to PSERS
- The need for additional information about PSERS in order to make an informed decision about the upcoming transfer opportunity
- The ability to purchase additional service credit or "air time" under PSERS
- Cost of post-retirement medical insurance
- The prospective service requirement in PSERS (Age 60 retirement with 10 years of PSERS service). Does not benefit all of today's corrections officers.
- Below market salaries paid to corrections officers (relative to county corrections)
- Exclusion of overtime from average final compensation
- Identification of cost saving measures to offset the cost of increased retirement benefits (improved attraction and retention, reduced overtime budgets, reduced L&I claims, eliminate budgetary waste, reduced training costs from lower turnover, etc.)

- High state training costs for corrections officers who leave state corrections for county correction positions after a relatively short tenure with the state.

The hearing adjourned at 3:05 PM.

JIM DENSLEY

PRESENTATION TO SELECT COMMITTEE

September 27, 2005

Reference: DRS Retirement Benefits for Members of National Guard

**Introduction:**

My name is James Densley. I am an active member of the Washington State Bar Association, the West Area Ombudsman of the Washington Committee of Employer Support for Guard and Reserve (ESGR) and an active member of the PERS 1 Retirement System.

**Purpose:**

I am here today to discuss the proper treatment of members of the National Guard as it pertains to the administration of DRS retirement benefits.

**Presentation:**

In the 2001 legislative session, Chapter 73.16 RCW was substantially amended to extend employee protections to members of the National Guard. These amendments were referred to as the "Mini-USERRA" since they were intended to supplement USERRA-like protections to employees performing all types of "Uniformed Services," most importantly state ordered duty. The statute at RCW 73.16.050 set out the legislative intent and the purpose of the statute,

**Intent--Purpose.**

(1) It is the intent of the legislature to guarantee employment rights of members of the reserve and national guard forces who are called to active duty. The federal uniformed services employment and reemployment rights act of 1994 protects all such federal personnel. The legislature intends that similar provisions should apply to all such state personnel. Therefore, the legislature intends for chapter 133, Laws of 2001 to ensure protections for state-activated personnel similar to those provided by federal law for federal-activated personnel.

(2) The purposes of this chapter are to:

(a) Encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment that can result from such service;

(b) Minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service; and

(c) Prohibit discrimination against persons because of their service in the uniformed services.

(3) Therefore, the legislature intends that the governmental agencies of the state of Washington, and all the political subdivisions thereof, should be model employers in carrying out the provisions of this chapter. [2001 c 133 § 1.]

**NOTES:**

**Effective date -- 2001 c 133:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 2, 2001]. [2001 c 133 § 15.]

Soon after the enactment of the statute the protections were tested by the events following September 11, 2001. The Governor activated members of the National Guard to protect airports, military installations, the international border, and other critical facilities within the state. Some members of the National Guard were federalized by the President. Some of these National Guard members served overseas; some of these served by paying the ultimate price in Iraq and Afghanistan. Just recently in the wake of Hurricane Katrina, members of the Washington National Guard were again activated by the Governor. The National Guard serves as a reserve component of the military under two chains of command, the Governor and the President. While acting under orders of the Governor the National Guard is not bound by the provisions of the federal "posse committatis" act which prohibits the United States military from involvement in domestic law enforcement and, thus, is able to perform civil law enforcement duties which federal military units are unable to do.

Likewise, the legislature has long provided in RCW 38.24.060 protections in employment and reemployment to members of the organized militia (National Guard).

Despite these recent statutory amendments to Chapter 73.16 RCW and the lengthy history of Title RCW 38, the Department of Retirement Systems has recently indicated an unwillingness to comply with the intent of the legislature to extend employment and reemployment benefits to members of the National Guard. I am asking that the legislature address this unwillingness of DRS to treat fairly members of the National Guard serving under state orders. The following quotations are from a recent decision made by the Department of Retirement Systems denying military service credits for duty performed with the Washington National Guard:



First addressing the protections extended in RCW 73.16, the presiding officer of the Department of Retirement Systems ruled in an administrative appeal of James Densley, Docket 05-P-004, page 17 conclusion 44, that DRS is not subject to the protections provided under this statute except as to its own employees: "DRS, the administrator of public employee retirement systems (including PERS), is an employer by this definition only with respect to its own employees." By this statement DRS has determined that employees of other divisions of the state such as Department of Licensing, Social and Health Services, or municipal sub-divisions are not worthy of the protections of the statute when serving under state orders in the National Guard. DRS's presiding officer continued at conclusion 45: "RCW 73.16.055(1)(c) does expressly address a 'right provided under any state law governing pension benefits for state employees.' But DRS is not subject to Chapter 73.16 when it is considering service credit in PERS Plan 1 for non-interruptive military service."

DRS's Presiding Officer then continued by claiming that DRS was exempt from compliance with the anti-discrimination protections to employment and reemployment extended by RCW Title 38. These protections were specifically degraded by Conclusion 49: "RCW 38.24.060 is an anomalous provision codified at the end of a short chapter authorizing payment of the militia expenses from the state treasury. . . . (emphasis added)" By this stretched reasoning DRS concluded that if a statute were in an inconvenient part of the Revised Code of Washington it could be disregarded. Even more audaciously, DRS stated at conclusion 53: "DRS would not recognize chapter 38.24 RCW as a source of binding legal authority affecting how military service, particularly military service pre-dating PERS-covered employment, is credited in PERS." The Department even reasoned that this law which was enacted subsequent to RCW 41.41.170 was not important in determining legislative intent.

Moving then to the topic of non-interruptive military service credits, DRS has declared that service in the Washington National Guard is not "service in the armed forces" as provided by RCW 41.40.170 (3), conclusion 28. This is despite the fact that members of the National Guard train regularly with all types of weapons in order to protect and serve the state and nation. DRS will provide such retirement credits to members of the Reserves but not the National Guard, even

though both are parts of the reserve components of the United States military. Somehow DRS has reasoned that since the National Guard serves both the State of Washington and the United States Government that the National Guard is unworthy of DRS recognition as "service in the armed forces."

The specific recommendation I make to this honorable committee is that RCW 41.40.170 be slightly amended. These amendments will incorporate the requirements of the federal USERRA act as well as the state Mini-USERRA of Chapter 73.16 RCW. These amendments will replace the confusion in interpretation experienced by DRS. In RCW 41.40.170, paragraph 1, the term "active federal service" should be deleted and replaced with the term "service in the uniformed services as defined by RCW 73.16. 031 (12)":

Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty (including state-ordered active duty), and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

Likewise in RCW 41.40.170 (3), the terms "service in the armed forces" and "such armed service" be replaced with the term "service in the uniformed services as defined by RCW 73.16. 031 (12)."

Thank you for your consideration. I hope that this recommendation will be a part of this year's legislative packet.